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THE  
**BOMBAY CITY LAND REVENUE ACT**

No. II OF 1876

AS AMENDED BY ACT III OF 1900

ANNOTATED AND PUBLISHED WITH THE SANCTION OF THE  
GOVERNMENT OF BOMBAY

BY

D. R. VAIDYA, B.A., L.C.E.

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**BOMBAY**

1914

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## PREFACE.

THE history of the land tenures existing in the Town and Island of Bombay was, till recently, confined to the archives of the Bombay Collector's Office, and the public were at a disadvantage in getting any real assistance from his records which were in a very confused state. Since I joined the Collector's Office I always felt the necessity of a handy manual which would give the history as well as the nature of these tenures. The subject had also assumed an importance of its own since the operations of the Improvement Trust, and it is within recent memory how the appearance of the Government of Bombay as a claimant before the Special Collectors and the Tribunal of Appeal to enforce their just and legal claim to a share in the compensation in respect of the lands held under the Sanadi and the Toka tenures, took many a landed proprietor by surprise and involved them in costly litigation. The records have since been carefully assorted, catalogued and indexed and the former confusion has been completely removed. In presenting, therefore, a brief history of the existing tenures to the public I have attempted to supply a want that was felt by the landholders, the legal profession and the officials alike. With this object in view I have endeavoured to write the "Introduction" at some length, and I shall feel that my labours are sufficiently compensated if the respective rights of the Government and the holders of land in Bombay are removed from the domain of uncertainty and surmise and placed on a surer basis, intelligible to all.

The annotation of the Bombay City Land Revenue Act was undertaken with the permission of the Government of Bombay. There have been remarkably few



cases decided by the High Court in matters of land revenue administration in Bombay. Of these cases I have referred only to such of them as have any bearing on questions of law. Those bearing on questions of facts could not be of much use and have therefore been omitted.

I am greatly indebted to my Official Superiors who have afforded me every facility in the compilation of this manual and more particularly to Mr. G. W. Hatch, I. C. S., the late Collector, who obtained for me the necessary permission from Government to annotate the Act, and to Mr. E. L. Sale, I. C. S., the present Collector, who not only went through the manuscripts but also made very valuable suggestions. I also feel grateful to my cousin Mr. D. L. Vaidya, B. A., LL. B., Solicitor, and to Rao Bahadur V. N. Khopker, late Deputy Collector, Nasik, for their useful help in going through the draft manual and suggesting the present arrangements thereof. My thanks are due to Mr. Francis E. H. Rodrigues, B. A., of the Government Solicitor's office, who is responsible for many of the corrections.

My thanks are similarly due to Mr. N. G. Damle, Head Surveyor to the Collector of Bombay, and to Mr. G. S. Gupte, B. A., L. C. E., his Assistant, for their untiring labours in examining the proofs.

D. R. VAIDYA.

BOMBAY COLLECTOR'S OFFICE,  
TOWN CUSTOM HOUSE.  
20th February 1914.

## LIST OF ABBREVIATIONS.

G. R. or Govt. Reso.*	Government Resolution.
G. R. C. W. P. W. D.	Government Resolution in the Public Works Department, Civil Works.
Qrs .. .. .	Quarters ( one-fourth of a rupee ).
rs .. .. .	reas.
Xs .. .. .	Xeraphins.

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\* Where the Department is not specially mentioned, the Resolutions should be considered as issued in the Revenue Department.

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## BOOKS REFERRED TO.

NAME.	ABBREVIATIONS USED.
Da Cunha's Origin of Bombay.	Da Cunha.
Forrest's Selections, Home Series, Volume II.	Forrest II.
• Bombay City Gazetteer, Volumes I, II.	Gazetteer I, II.
Le Messurier's Report on the History of the Foras lands.	Le Messurier.
Sir James Campbell's Materials for the Gazetteer for the Town and Island of Bombay, Volume XXVI, Parts I, II, III.	Materials I, II, III.
Warden's Report on the Landed tenures of Bombay.	Warden.

## TABLE OF CASES CITED.

	PAGE
Dorabji vs Bishop of Bombay .....	lxxxviii
Felix Lopez vs Maddan Thacoor .....	41
Framji Cowasji vs Government .....	lx
Government vs Hirabai .....	lx
Jethabhai Rattansi vs The Collector of Bombay..	52
Merwanji M. Cama and another vs The Secretary of State for India in Council.....	23, 33, 66
Motibai vs The Collector of Bombay.....	12, 14
Nowroji Beramji vs Rogers .....	lxxii
Secretary of State vs Wasudeo .....	9
Shaik Abdool Amlity vs Nasserwanji Cowasji ..	xx
Shapoorji Jivanji vs The Collector of Bombay..	xliii, lxlii 10, 14, 35
Spooner vs Harkisondas .....	33
Tobin vs The Queen .....	32
Veykunta Bapuji vs The Government of Bombay.	34
Vinayak Atmaram vs The Collector of Bombay..	10, 17
Yeshodabai and Gopikabai vs Ranchandra Tukaram .....	lxxxviii

# CORRIGENDA.

Page	Line	For	Read
ii	32	refused to do so	refused the cession
vi	20	10 £.	£ 10.
vii	14	acquisition	acquisitions
viii	11	having	were
"	12	been given	given
ix	1	agreed on	agreed upon
"	6 f. n.	seigniorial	seigniorial
xxvii	21	improvement	improvements
"	32	superced-	superseded-
xxviii	19	committee appointed.	committee to be appointed.
xxxiv	8	fee	free
"	24	prove	proves
xxxvi	18	the Government	Government
xlui	4	turn it out into	turn it into
xlvi	12	Chanpati	Chaupati
xlix	26	accommda-	accommoda-
i	13	quite-rent.	quit-rent.
lii	18	future of levy	future levy
liii	2	As the	As for the
lxii	20	20,6,000,	20,16,000,
lxxvi	2	1787	1797
lxxix	34	having being	having been
lxxx	21	and held	and to be held
"	24	seignory,	seigniory,
lxxxii	20	system	system
lxxxix	4	had been in	had been at in
lxlviii	4	drawn on	drawn upon
ci	10	issu eremained	issue remained
cii	14	as	are
civ	1 f. n.	Form	For form of

# CORRIGENDA.

Page	Line	For	Read
cix	27	accomplished	accompanied
cxiii	29	qui-rent	quit-rent
cxxvi	22	demand,	demand
cxxix	14	Commisioners.	Commissioners.
cxliv	21	liquor	liquor
1	8	agaist	against
14	20	Jivaji	Jivanji
15	11	6.	9.
24	31	instalment	instalments
27	6	and that it	and it
44	18	in case	in cases
49	8	paragraph 3	the preceding paragraph
"	9	8931,	8981,
79	2, 5	distrained	restrained

# CONTENTS.

INTRODUCTION.	PAGE
Chapter I.—Revenue History of Bombay .....	i
Chapter II.—Revenue History of Colaba .....	xlvi
Chapter III.—The Mazagon Estate .....	lxiv
Chapter IV.—The Existing Tenures .....	lxxxv
Chapter V.—Surveys .....	cvii

## APPENDICES.

A—Aungier's Convention .....	cxiii
B—Foras Act VI of 1851 .....	cxxii
C—Inam Grant of 1783.....	cxv
D—Inam Grant of 1828.....	cxvii
E—Inam Grant of 1885 .....	cxviii
F—Form of Lease No. I .....	cxli
G—Form of Lease No. II .....	cxlix
H—Form of Sanad No. I .....	cliv
I—Form of Sanad No. II .....	clv
J—Form of Certificate of Conversion of Sanadi tenure into Quit and Ground Rent .....	clvi
K—Form of Tenancy-at-will Agreement .....	clix

## THE BOMBAY CITY LAND-REVENUE ACT, 1876.

PREAMBLE .....	1
----------------	---

### *Part I.—Preliminary.*

#### SECTIONS.

1. Short title.....	2
Extent.	
2. Regulation XIX of 1827 repealed.....	2
3. Interpretation-clause .....	3

## CONTENTS.

### *Part II.—The Collector of Bombay and his Subordinates.*

SECTIONS.	PAGE
4. Chief control in revenue matters.....	7
5. Appointment and duties of the Collector of Bombay .....	7
6. His assistants and establishment how ap- pointed, .....	7
their duties, and powers. ....	8
7. Punishment for misconduct .....	8

### *Part III.—Assessment and Collection of Land-revenue.*

8. Collector to fix and levy land-revenue.....	8
9. Settlement of assessment with whom to be made .....	15
10. Liability for land-revenue .....	21
11. Claims of Government to have precedence..	21
12. Collector to direct to whom and when and where revenue to be paid .....	22
13. Notice of demand may be served after arrears due.	
Fees chargeable in respect of notice of demand.	
On default in payment, defaulter's property may be attached and sold .....	25
Sales how held .....	26
Defaulters may be arrested and confined.	
14. Collector's decision to be acted on in first instance; but may be stayed on security being furnished .....	30

## CONTENTS.

SECTIONS.	PAGE
15. Compulsory process to cease on payment under protest, or on instituting suit and furnishing security .....	31
16. Fees in respect of warrant for attachment and sale of defaulter's property .....	32
Additional fee.	
<i>Part IV.—The Revenue Judge.</i>	
17. Revenue Judge.....	32
Duties and powers.	
18. Suits before Revenue Judge how conducted.	
Appeals how and to whom to lie.	
Decrees how executed .....	35
<i>Part V.—The Bombay City-survey and Boundary-marks.</i>	
19. Bombay City-survey recognized .....	37
20. Responsibility for maintenance and repair of boundary-marks .....	38
21. Collector or subordinates may enter upon lands .....	38
22. Collector may require superior holders to renew or repair survey-marks.	
Requisition how made .....	38
23. On default, Collector or assistants may enter and renew or repair.	
Charge for renewal or repair .....	39
<i>Part VI.—Government Lands and Foreshore.</i>	
24. Right of Government to lands and foreshore.	39
25. Such lands and foreshore how disposed of ..	43



## CONTENTS.

### *Part VII.—Encroachments.*

SECTIONS.	PAGE
26. Power to abate encroachments on Government land or foreshore, or to prohibit or require abatement of such encroachments under penalty of fine; .....	50
or to charge for and assess land, and then enter it in name of encroacher .....	51
27. Value and land-revenue how calculated ....	52
28. Encroachments made before passing of Act how dealt with .....	53
29. Encroachments before passing of Act defined. Value and land-revenue payable in respect thereof how calculated .....	53

### *Part VIII.—Transfer of Lands, etc.*

30. Notice of transfer of title to lands, etc., to be given to Collector .....	55
Notice when to be given .....	56
Transferee by death to give notice within one year.	
31. Form of notice .....	57
Accompaniments.	
32. Penalty for neglect to give notice .....	58
33. Person transferring title and omitting to give notice to continue liable for revenue...	59
34. Proceeding in case of dispute as to entry or transfer .....	59
35. Registration or transfer not to affect right of Government .....	61

## CONTENTS.

SECTIONS.	<i>Part IX.—Procedure.</i>	PAGE
36.	Law applied to summonses, etc.	
	Notice how to be served .....	61
	<i>Part X.—Levy of House-rent, Fees, Penalties, etc.</i>	
37.	Dues leviable as revenue-demands .....	63
38.	Power to Collector of Bombay to assist other Collectors in realization of dues .....	63
	<i>Part XI.—Miscellaneous.</i>	
39.	Collector to keep registers and rent-rolls....	65
40.	Maps, land-registers and records where to be kept; to be open to inspection. Extracts and copies to be given.....	65
41.	Power to frame and vary rules for guidance of Collector, etc., and for matters not provided for .....	68
SCHEDULE A.—Table of Fees .....		69
SCHEDULE B.—Form of Notice of Transfer other- wise than by Instrument .....		70
SCHEDULE C.—Form of Notice of Transfer by Instrument .....		71

## APPENDICES.

No. 1—Form of Notice under Section 9 .....	72
No. 2—Form of Notice under Section 12 .....	72
No. 3—Form of Receipt-Bill .....	74
No. 4—Form of Notice under the proviso to Sec- tion 12 .....	76
No. 5—Form of Notice of Demand under Section 10 or 13 .....	77
No. 6—Form of Prohibitory Order under Section 13.	78

## CONTENTS.

	PAGE.
No. 7—Form of Warrant of Attachment under Section 13 .....	79
No. 8—Conditions of sale of lands seized under distress warrants .....	80
No. 9—Form of Notice under Section 26 .....	81
No. 10—Form of License for the beat of bataki ..	82
No. 11—Form of Summons under Section 36 ....	82
No. 12—Form of Certificate under Section 3 of the India Act I of 1890 .....	83
No. 13—Form of Survey Register .....	84
No. 14—Form of Rent-roll .....	85
No. 15—Rules under Section 40 .....	86
No. 16—Rules under Section 41 .....	89
INDEX .....	91

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# INTRODUCTION.

## CHAPTER I.

### REVENUE HISTORY OF BOMBAY.

The Island of Bombay was ceded to the Crown of England by the Crown of Portugal by virtue of the 11th article of the treaty entered into on the 23rd June 1661, on the marriage of King Charles II of England with the Infanta Catherine of Portugal, which runs as follows:—

The Marriage Treaty.

“That for the better improvement of the English interest and commerce in the East Indies, and that the King of Great Britain may be better enabled to aid, assist, defend and protect the subjects of the King of Portugal in those parts from the power and invasion of the States of the United Provinces, the King of Portugal with the assent and advice of his Council gives, transfers, and by these presents, grants and confirms unto the King of Great Britain, his heirs and successors for ever, the Port and Island of Bombay in the East Indies with all rights, profits, territories, and appurtenances whatsoever thereunto belonging, and together with all income and revenue, as also the direct and absolute Dominion and Sovereignty of the said Port and Island of Bombay and premises with all their royalties, freely, fully, entirely and absolutely. He also covenants and grants that quiet and peaceable possession of the same shall, with all convenient speed, be freely and effectually given and delivered to the King of Great Britain (or to the persons whom the said King of Great Britain shall depute for this purpose) for his own use. In pursuance of their cession the inhabitants of the said Island (as subjects of the King of Great Britain, and under his Commands,

Crown, Jurisdiction and Government) shall remain therein and enjoy the free exercise of the Roman Catholic religion in the same manner as they now do. . . . . And when the King of Great Britain shall send his fleet to take possession of the Port and Island of Bombay the English shall carry instructions to treat the subjects of the King of Portugal in the East Indies in the most friendly manner, and to help, assist, and protect them in their trade and navigation there.”\*

The Portuguese evade the cession.

In terms of this treaty, a fleet of five men-of-war, under the command of the Earl of Marlborough, with 500 troops under Sir Abraham Shipman, appointed to be General on shore, was despatched from England in April 1662. Antonio de Mello e Castro, Viceroy of the King of Portugal, who was authorised to deliver the Island and its dependencies to the King of England, accompanied the English Admiral.

The English fleet arrived in Bombay on the 18th September 1662 and demanded the cession of the Island and of its dependencies conformably to the treaty between the King of England and the Crown of Portugal. The English Admiral demanded not only the Island and harbour of Bombay, but also the Island of Salsette, believing it to be included in the dependencies of Bombay. The Portuguese Governor of Bombay evaded the cession of the Island. The Viceroy, who had come out in the English fleet, refused to interpose his authority till he should proceed to Goa, and receive instructions from the Portuguese Viceroy of the Indies. In the meanwhile the Earl of Marlborough demanded the cession of the Island of Bombay only without its appurtenances but the Portuguese Governor refused to do so on the pretext that Sir Abraham Shipman, who had been somehow

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\* Forrest II, App. B, p. 367.

left behind, had not arrived. Sir Abraham reached Bombay in October 1662, produced his credentials and demanded the cession agreeably to the treaty from the Portuguese Governor but the latter objected to the form of the Letters Patent of the King which did not coincide with the usages observed in Portugal in like cases. He, however, offered to retain the Island for the King of England till he should receive orders from Portugal and England, empowering him to make the cession. Under these embarrassments, the Earl of Marlborough and Sir Abraham Shipman applied to Sir George Oxinden, President of the Council at Surat, for permission to land the troops at Surat. But Sir George represented that such an application would offend the Mogul Governor who, if it should be attempted, might probably seize the Company's investment and expel their servants from the Fort. \*

The Earl of Marlborough eventually set sail with the fleet on the 14th January 1663; while Sir Abraham Shipman and the troops were forced to land on the unoccupied Island of Anjidiv, twelve leagues to the south of Goa, where lack of proper food and an evil climate caused the death of nearly all of them, including Sir Abraham Shipman himself. †

Just prior to his death, in April 1664, Sir Abraham Shipman received a fresh commission from King Charles, dated 23rd November 1663, which authorized him to receive possession of Bombay from the Portuguese Viceroy; but as he died before any definite step could be taken, the Supreme Court at Goa decided, after some correspondence with Antonio de Mello e Castro, that the Island should be handed over to Humphrey Cooke

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\* Materials I, p. 10. † Gazetteer II, p. 50.

who had been Sir Abraham's secretary and had been nominated by him in his will as his successor. Further desultory correspondence ensued and eventually Humphrey Cooke was compelled to accede to a treaty with the Viceroy of Goa on the 14th of January 1665 on such terms as the Viceroy would grant.

Cooke's Convention.

Some of the conditions of this treaty were as follows :—

(1) That the Portuguese residents shall be exempted from the payment of customs and shall have liberty of trade from Bandra and the creeks of Salsette.

(2) That the Curumbis, Bhandaries and the Abunhados\* or the inhabitants of the villages under the Portuguese jurisdiction shall not be admitted to Bombay.

(3) That every person possessing revenue at Bombay either by patrimonial or Crown lands shall possess the same by right and shall not be deprived thereof except in cases which the laws of Portugal direct.

(4) That the inhabitants of Bombay and the landholders of that Island shall not be obliged to pay more than the foros † they used to pay to His Majesty of Portugal. ‡

On the signing of this convention, when Cooke requested the Commission, deputed by the Viceroy of Goa for the purpose of effecting the delivery of the Island of Bomaby and its territories, to define the position and limit thereof, they replied that they were not instructed to hand over the villages of Mazagon, Parel, Warali, Mahim, Sion, Dharavi and Wadala but only the Island

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\* Sort of people bound to serve landholders. "Abunhado" is not a purely Portuguese term. In Portuguese India an Abunhado was one who was obliged to till the lands belonging to the lord of the manor in whose lands he was born.

† Quit-rent. ‡ Forrest II, App. B, p. 377.

## INTRODUCTION.

v

of Bombay. After some dispute, however, the Commission eventually defined the position of Mazagon, Parel, and Warali as belonging to the territory of the Island of Bombay. Cooke, however, notwithstanding the protest of the Portuguese, took possession of the villages of Mahim, Sion, Dharavi and Wadala and had his action upheld by a Commission locally appointed to decide between the claims of the contending parties.\*

Cooke's Convention was, however, subsequently disavowed by the Crown of England as being contrary to the terms of the treaty and Sir Gervase Lucas was appointed Governor of Bombay. Sir Gervase arrived in Bombay on the 5th November 1666 and took charge of the Government. He instituted an inquiry into the proceedings and conduct of Cooke and found that instead of carrying the revenues to His Majesty's account he had extorted the sum of 12,000 Xeraphins† from the inhabitants and converted it to his own private use. The account which Sir Gervase Lucas subsequently transmitted afforded evidence of the improvident convention which Cooke had formed by receiving the Island from the Portuguese without the King's rights having been ascertained. In his letter to Lord Arlington on the 21st March 1666, Sir Gervase said that he was making every effort to increase the King's revenue, but from the indefinite conditions on which Cooke had received the Island, "it was impracticable to ascertain which of the inhabitants were legally possessed of sufficient titles to their estates, no stipulation having been made relative to the King's sovereignty of the soil, as some of the best estates in the Island refused to pay rent

Cooke's Convention disavowed.

\* Da Cunha, p. 264. Also Gazetteer II, pp. 54-55.

† 13 Xeraphins=22s. 6d. Xeraphin was an old coin of Portuguese India. The word is derived from the Arabic Xerify or 'Ashrafi, an Arabian King in whose reign the coin first obtained currency.



and produced titles which could not be disputed, though believed to be fictitious.”\* The Jesuit College at Bandra claimed a considerable extent of land and of rights in the Island which Sir Gervase refused to admit. The Jesuits had recourse to force. This the Governor conceived to be an act of treason against His Majesty’s Government and declared their lands and rights to be forfeited to the King.†

Transfer of  
the Island to  
the Company.

The friction and rivalry between Bombay and Surat resulted, in 1667, in the offer of the East India Company to take over Bombay; and the Crown of England considering the Island as an unprofitable possession owing to the cost and trouble of managing it, transferred it to the Company by Letters Patent, dated the 27th March 1668. By this Charter the King granted the Port and Island of Bombay to the Company in perpetuity with all the rights, profits, and territories thereof to be held by the Company of the King in free and common socage‡ as of the Manor of East Greenwich, on payment of an annual rent of 10 £. This Charter provided that the Company or their assigns should not at any time “sell, alien, transfer, or otherwise dispose of the said Island and premises, or any part or parts thereof, to any Prince, Potentate, or State, or other person or persons whatsoever, but such as are or shall be the subjects and the allegiance” of the Crown of England. It further authorised the Company “to ordain, make, establish, and under their common seal to publish, any laws, ordinances, and constitutions whatever, for the good government and other use of the said Port and Island of Bombay and the inhabitants thereof.”

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\* Warden, par. 11-12. / † *Ibid*, par. 18.

‡ Socage in its most extensive signification seems to denote a tenure by any certain and determinate service. It is of two sorts : free socage, where the services are not only certain but honourable and villein socage, where the services, though certain, are of a baser nature. (Annandale's Encyclopedia).

The Island was delivered over to Sir George Oxinden, who took possession of it in the name of the Honourable Company on the 21st September 1668.

With the object of improving the cultivation of Bombay (that the produce might be equal to the charges of Government) Sir George Oxinden was instructed by the Court of Directors of the Company to invite such of the natives as might choose to resort to and settle on the Island. \* Court's instructions.

On the subject of the claims of the Portuguese to the lands on the Island the Court of Directors ordered that it should be ascertained whether the lands belonged to the Crown of Portugal or to individuals in 1661, the date of the cession, and that all acquisition prior to that date must be held to have proceeded from imperfect right. †

In 1671, proposals were made to levy a "general tax or assessment over and above the present foro which was only a kind of quit-rent and very inconsiderable." This tax or assessment was proposed to be levied only on land and not on any goods or merchandise. ‡

But these measures appear to have caused much discontent among the people who, to avoid "the titles in right of which they held their lands being exposed to censure," offered of their own accord to the Governor and Council to pay a yearly contribution or composition of 20,000 Xeraphins to the Honourable Company, "including the present quit-rent or foras" provided they were secured in their respective lands and estates and that the lands which had been seized were restored to the holders thereof. §

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\* Warden, par. 16. † Materials, I, p. 36.

‡ Materials, I, pp. 40-41. § *Ibid*, III, p. 258.

Aungier's  
Convention

On the 4th of October 1672 the representatives of the landholders presented to the Governor and Council a statement of their proposals contained in twelve articles which having been "seriously and publicly debated" at a general assembly held in the Bombay Castle on the 1st of November 1672, the famous Convention,\* known as "Aungier's Convention," was agreed upon and signed on the 12th *idem* by the Governor and Council and by 120 of the "eminent of the Povo † in behalf of the whole Povo of the isle."

Convention  
confirmed by  
the people.

Two years later, the Governor and Council having been given to understand that several inhabitants of the isle "did give out diverse words tending to the dishonour and discredit of the Honourable Company's Government, saying that the abovesaid contract made between the Governor or Honourable Company and the Povo, was an unjust and accursed contract. Whereupon the Governor summoned all the Povo to meet at a general assembly in Bombay Castle and desired them to declare their minds freely without the least apprehension of fear concerning their sense of the said contract and whether they owned these exclamations against it, declaring further that they were at their own liberty whether it should be disannulled and made void, or be confirmed. Whereupon the Povo in general stated they never exclaimed against the said contract, but were thoroughly satisfied therewith and the justice thereof, it being an affair of their own requesting and seeking after." They desired that the Governor and Council would be pleased to ratify the said contract. This was unanimously on both sides

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\* For the full text of the Convention, *vide* Appendix A.

† Povo = People, parishioners or inhabitants.

agreed on and the contract was signed and confirmed on the 16th July 1674.\*

This Convention does not appear to have been either ratified or annulled by the East India Company but has been always regarded as valid and has been acted upon. Although no patents were granted to the inhabitants according to their respective titles they were perfectly secure in their possessions, Government reserving the right to take them for building "cities, towns or fortifications" on reasonable satisfaction to the proprietors. It recognized all land then in occupation as private property subject to military service † under which the lands were held of the Crown of Portugal; while all the uncultivated and waste land, excepting such as by the constitution of the Island was an appendage of the cultivated portion as pasturage ground, remained the property of the Company. ‡

Convention  
regarded as  
valid.

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\* Materials, III, p. 263.

It is noteworthy that in the peoples' proposition it was set forth that the offer of the 20,000 Xeraphins was made "for the better way of agreeing in the express charges that the Company have for the defence of this isle" and that there is no reference in the proposition to the reservation of any seigniorial rights to the East India Company. On the other hand in the Agreement there is no reference to any charges for the defence of the isle and special reservation is made to the Company of all rights, privileges and immunities "which did formerly belong to the Crown of Portugal of Foras and Royal rents of what nature or condition soever."

† An important explanation of the reservation of the military service will be found in the reply dated 18th March 1691, by the Governor and Committees of the London East India Company to a memorial of the inhabitants of Bombay, who, during the Dutch war and the war with the Mogul, refused to assist in the defence of the Island and claimed exemption from military service. In this they stated that the inhabitants of the Island of Bombay, while they were subject to the King of Portugal, paid one-fourth part of the profits of the lands as quit-rent, which President Aungier commuted for a quit-rent of 20,000 Xeraphins per annum, reserving to the Company, as representing the King, the right to the military services under which the lands were held from the Crown of Portugal. (*Vide* Warden, par. 53.)

This is further exemplified by a letter of the Court of Directors, dated 5th April 1715, that "the Vereadores (chief representatives of the people) entered into an agreement to excuse themselves from finding trained bands or militia in consideration of 15,000 Xeraphins a year." (Warden, par. 71.)

‡ Warden, par. 33, 57, 274.

Crown lands  
alienated.

From 1674 onwards, as population increased, the Company's lands were proportionately assigned for their accommodation; the waste lands were let out for cultivation to the Kunbins, the produce being equally divided between the Company and the tenants. People were encouraged to stop breaches by the grant of leases of un-reclaimed ground for a number of years at a small quit-rent with the stipulation that they should reclaim the lands within seven years. Marshy lands were similarly drained and rendered fit for cultivation.\*

One of the important events in connection with the land administration of Bombay was the seizure of the lands of the Jesuits who had assisted Siddi Kasim during his invasion of the Island of Bombay in the years 1688-1689. After careful inquiry some of the forfeited estates were, in 1694, restored to the proprietors on their paying one-fourth of the value of the estates. The war and the plague which followed, depopulated the Island and left many estates without tenants. These were assigned to the Gentoo (Hindoo) soldiers, who were placed on half pay but had to remit half the produce of these lands to the Company. A considerable portion of the Crown lands had been alienated by the year 1707-1708. The greater part of the Fort about this time was private property. †

Court's in-  
structions,  
1717.

In 1717, in their despatch of 21st February, the Court of Directors wrote to the Governor and Council: "Remember your promise to improve the ground within the City wall by letting leases renewable or by fines or quit-rents or whatever way you should judge most for our interest. The consideration of our prodigious charge

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\* Warden, par. 39; Materials, III, pp. 266, 274, 309.

† Warden par. 49, 51, 54; City Gazetteer, p. 320.

and peoples' protection and liberty are, if rightly managed, very cogent arguments to convince everyone why that ground ought to be valued higher than it otherwise would be."\*

In pursuance of this, a quit-rent was imposed in 1718 "on all the inhabitants residing within the Town walls, in order to reimburse the Right Honourable Company some part of the great expense and charges they had been at in fortifying and securing the said town."† On what principle this tax was levied is not known but until "equalized" in 1731, it was "paid in a manner entirely unascertained, whereby some people have been prejudiced and others favoured."‡

Quit-rent  
established,  
1718.

This tax is said to have substituted § a money charge for the liability to military service reserved under Aungier's Convention and ended the feudal tenure. ¶

Two years later, in 1720, the principal inhabitants complained of the quit-rent being a heavy tax and desired that they should be relieved of it. Several of the inhabitants to avoid paying the quit-rent built houses without the town wall. A proclamation was issued on 3rd October 1720, reducing the quit-rent to one-half and extending it to all houses within cannon-shot of the town walls. ||

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\* Materials, III, p. 301 ; Warden, par. 73.

† Warden, par. 72, 174. ‡ *Ibid.*, par. 75.

§ But if Aungier's Convention reserved personal service of the tenants in every part of the Island, it is not apparent how the introduction of the quit-rent on lands in the Fort alone redeemed it. Possibly the levy of this rent in the Fort was sufficient to raise a militia in times of war.

¶ Warden, par. 74, 174.

|| Materials, III, p. 301. Warden, par. 175.

Quit-rent  
modified,  
1731.

This quit-rent was again modified \* in 1731 when certain abuses in the levy thereof were discovered. By a resolution of the Council of the 3rd December 1731, the English inhabitants were directed "to pay the same quit-rent for their houses that they had hitherto been assessed in, but for such ground as they might have taken in since the building of their houses or may hereafter take in they shall pay an additional quit-rent of six reas for each square yard but free of ground rent and all natives or black inhabitants to pay for the ground they occupy or should hereafter occupy a quit-rent of six reas and a ground rent of five reas for each square yard."†

In the next year a suggestion was made to abolish the quit and ground rent, and, indeed, its levy was discontinued but the Court of Directors declined to take off or abate any of the taxes whatsoever and ordered the arrears to be recovered. ‡

Since the conclusion of Aungier's Convention no lands appear to have been allotted on any established system. There was not a single square yard of Crown land upto 1731 leased on conditions clearly descriptive of the nature of the tenure or of the intentions of the parties. § In 1729 or about that time orders were issued

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\* This modification or "equalization" appears to have been made with reference to the lands within the town walls only. For, we see from the Collector's Rent-rolls that the lands without the town walls paid rates of 15, 30 and 45 reas per *single* yard. These varying rates were gradually changed, till in 1792 we find all the lands under this tenure paying a uniform rate of 30 reas per *single* yard. This was again changed without any apparent reason to 11 reas per *square* yard in 1804-05. (It is not known what this "single yard" measure was. Even Dickinson in 1813 makes this remark: "At this distance of time it is not possible satisfactorily to discover by information or otherwise the quantity comprised in the indefinite measure termed "single yard"; for by proceeding on a similar principle no two measurements in the old rent-roll can even in a remote degree be reconciled.")

† Materials, III, p. 302. Warden, par. 176. Collector's Diary.

‡ Materials, III, p. 302. § Warden, par. 78.

that all persons who did not, within six months, produce an authentic lease should be dispossessed of their houses; and in 1731 and at intervals throughout succeeding years attempts were made to establish the Crown ownership of the land then occupied, and to prevent irregularity in the collection of the quit and ground rent.

In 1733, attempts were made to introduce leases for definite terms on the ground that "little regard has been paid by the inhabitants within and without the walls to an order of the 3rd December 1731." Further it was ordered that "a publication be made enforcing the said order under penalty of dispossessing all such persons as shall not produce an authentic lease signed by the Secretary in six months from the date of the said publication ascertaining their rights to the said house or houses and the ground they build on"; and it was on this occasion decided that the Secretary in framing such leases should grant a term of 41 years, renewable on the party paying a fine of half year's rent of the said house or tenement. \* The introduction of this form of lease, however, entirely failed and all the leases or permits were granted in conformity to the regulation of 1731. †

Attempts to  
introduce  
leases fail,  
1733.

In 1739, Government observing the irregular practice of building houses within the distance prescribed for the safety of all regular fortifications, published the order "that no houses be made or rebuilt nor any trees planted within the distance of 400 yards from the town walls, nor any houses erected within the said walls until the ground be surveyed by the Engineer for the time being, and by him to be recommended to the Land Paymaster for his approbation and leave." By this regulation no person could repair or build within the walls of the Fort without the permission of Government or their officers. ‡

Clearing the  
Esplanade,  
1739.

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\* Warden, par. 76. † *Ibid*, par. 82. ‡ *Ibid*, par. 80.



Drowned  
lands  
reclaimed.

Meanwhile efforts were being made to reclaim lands from the sea and the lands so reclaimed were assigned to individuals at a nominal rental on condition of their improving them. These lands were known as "Salt Batty lands."

In 1740, a publication was issued giving notice that Government was willing to receive proposals for farming lands in parcels or as a whole. \*

The lands were let at 4 reas † a burga ‡ and parcels were allotted to different Kunbis. The rent of the salt batty ground was raised to 6 reas a burga in 1744 and was further increased to 9 reas in 1748. §

Farming of  
batty lands,  
1751.

In 1751, by a resolution of the Council, dated 15th February 1751, the system of farming the batty lands, which were let to the Kunbis for cultivation, was introduced. The farms were put up to public auction and let for seven years on the following conditions:—(1) That the farm be let for seven years commencing from 1st June 1751 to 31st May 1758; (2) that the farmer pays the rent in two equal instalments, one in the end of February the other on the 31st May; (3) that the farmer shall collect from the Kunbis the usual toka ¶ for the ground they shall occupy in the same manner the Honourable Company used to do and also all the usual customs and small tributes; (4) that in consideration of the rent he pays to the Honourable Company the farmer shall be empowered to make what improvements he can and have the benefit thereof during his lease as likewise of the grass and all sorts of fruit and other trees that are in the villages; (5) that if any disputes arise between the Kunbis and the farmer, the farmer may apply to the

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\* Materials, III, p. 320. † 400 reas=one rupee.  
‡ Burga=60 Sq. yards. § Gazetteer II, pp. 324, 359.  
¶ Share of the produce.

Collector who will give his assistance and decide the same; (6) that to recover from such Kunbis as are in the Honourable Company's debt the farmer will take what part he can and pay the same to the Collector who will also give the farmer his assistance in recovering his due from the Kunbis if any be remiss in paying it; (7) that at the expiry of the lease the farmer is to leave the farm in as good a condition as he receives it or to make good the difference on a regular survey taken both now and at the expiration of the lease.\*

The farming system continued in force till the year 1800 when it was abolished owing to its disastrous effects† on the Company's rights.

On the 3rd of January 1758, with the view of reimbursing the "prodigious expenses which the Company has incurred in increasing the fortifications and the works on the Island for the security of the inhabitants in general" a tax of ten per cent. (two Shillings to the Pound) was ordered to be levied on the produce of all landed estates belonging to the inhabitants of the Island.‡

Tax of 1758.

A notification was issued requiring all the Fazindars§ in Bombay and Mahim to render the Collector an account of the annual produce of their land in order to enable him to levy the tax laid on them. The Fazindars objected to the proposal but were told that if they did not show due obedience thereunto, the Government would be obliged to put their own valuation on the lands.¶

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\* Materials, III, pp. 447, 448. † Vide p. lxli, *infra*.

‡ Materials, III, p. 454; Warden, par. 177. Collector's Diary.

§ Landholders. ¶ Materials, III, p. 454.

A few months afterwards the accounts (showing the amounts to be Rs. 58,263-1qr.-40 reas) were received, but as, on inquiry, the estates therein mentioned appeared to the Collector to have been considerably undervalued, he directed the Vereadors and some of the private Fazindars to inspect and consider these accounts carefully and to deliver their opinions thereon. This they accordingly did on the 19th and 22nd January 1759. A report was made to Government by the Collector stating that the estates, according to the Vereadors' account, were estimated at Rs. 77,000, and he recommended that the tax should be levied on that estimate.\*

This additional tax of ten per cent. was approved of by the Court in their letter, dated 25th April 1759, in which they wrote :—"It is extremely pleasing to us that you have shown such true attention to our interest in laying additional duties and taxes on the inhabitants, thereby relieving us in some degree of the burden we cheerfully bear to put the Island in a state of security. We applaud your conduct, and we have pointed out this commendable example to our Presidency at Calcutta, who have never once considered the equitable right we have to such assistance." †

Vesting of  
the Mazagon  
Estate in the  
Company,  
1758.

The same year, 1758, witnessed the vesting of the Mazagon Estate ‡ in the Company by virtue of a decree of the Mayor's Court, dated 10th February 1758.

In July 1765 the Fazindars of Bombay and Mahim made a petition to the Governor and Council asking to be relieved of the tax of 10 per cent. fixed in 1758, which they considered to be a very heavy tax on them to pay,

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\* Materials, III, p. 454. † *Ibid.*, III, p. 455.

‡ For a more detailed history of the Mazagon Estate, vide Chapter III.

adding that they were obliged to do militia duty and to be ready on any occasion for defending this Island as they did in former times and which they were still obliged to do whenever called upon. \*

In 1774, the inhabitants of Bombay again prayed that the 'tax' of 1758 might be relinquished. It was imposed, they said, by the then Governor, the Honourable Richard Bouchier, who signified to them the urgent necessity for raising money for maintaining the war with the French, and had further promised to relieve them of the same when the said war should be over. † Their petition was referred to the decision of the Court of Directors who in their reply, dated 12th April 1775, wrote:—"As our fortifications are far from being completed we can not consent to relinquish the tax laid upon landed estates in 1758, which was designed as an aid to the Company in the erecting of those fortifications." ‡

The chief events in the land administrations in Bombay between 1774 and 1800 were the Inam Grant § of certain lands in Parel to the Wadia family in 1783, and the following proclamation of 10th October 1789 issued by the Governor in Council to prevent the alienation of the Company's batty lands and consequent encroachment on their rights of proprietorship of the soil :—

Inam Grant  
of 1783.

Proclamation  
of 1789.

"Whereas the ancient (and till lately usual) custom of this Island in regard to farmers of villages and currumbes, of their being no other than stewards of the soil, having been most injuriously encroached on and infringed,

\* Collector's Diary. † Materials, III, pp. 468-69.

‡ Materials, III, p. 470; Collector's Diary. § Vide p. lxlvii infra.

in so much that the interest of the Honourable Company has been most audaciously usurped and very nearly annihilated. To the end therefore to renew the rights of the Honourable Company from so unlawful a combination and preserve their property and their rights in future the President and Governor, by and with the consent of his Council, hath thought proper and expedient to ordain, that as all farmers of their lands are only their stewards put into possession of certain portions of ground to improve for all sorts and manner of cultivation, and not to erect buildings of any kind whatever or to make any new enclosures of what sort soever. That whoever shall presume to act contrary to the spirit and true intent of this publication shall forfeit every such building, either of house, shed, wall or whatever, and if found making enclosures, be fined at the discretion of the said President and Governor, to whom all applications for buildings or enclosures, through the Collector for the time being, must in the very first instance be absolutely made, had and obtained and from no other person whatever. And he further ordains that as the currumbees of this Island under the Company are but tenants-at-will they have only the right to the use and improvement of such spots they are permitted to cultivate, instead of which alone they have presumed to dispose of many of these spots under deeds of sale, thereby assuming a right only belonging to the Honourable Company, as Lords of the soil and creating in course of time a better title than the Honourable the Court of Directors have invested their Governor in Council, without their approbation being first had and obtained. To obviate which practices and in order to discover every such alienation of the Honourable Company's property, a retrospective examination and power to rescind such unlawful sales is given in authority to the Collector and an absolute prohibition given to any future alienations of the same kind

or even of what is termed the benefit, without previous permission being obtained of the said President and Governor, through the Collector, who is to certify and record every such license, under pain of such fine or other punishment as the said President and Governor or his successor may think proper to inflict; and any Mattara \* suffering such alienation without acquainting the Collector as early as possible shall be subject to dismissal and what other punishment he may be deemed deserving." †

One of the gravest calamities which had fallen on Bombay was the great fire of 17th February 1803, when nearly a third part of the town within the walls had been consumed. In March of the same year Government appointed a Committee, known as the Town Committee, to report on the best means of repairing the destruction and of ascertaining the right of possession of the property in the tract laid waste by the conflagration. ‡

The Town  
Committee.

A plan for rebuilding the town was determined upon but the most wealthy of the native inhabitants formed a combination to resist by legal means any mode of lining out the new streets which should intersect their old foundations or to prevent their rebuilding on them. § The Town Committee at first expressed a decided opinion that the plan should be adhered to but subsequently moderated their views and in consideration of the losses by fire sustained by the people, suggested that the assessed proprietors should be given full compensation for their lands except for the portions required for widening the streets. Notwithstanding the opinion of Mr. Thriepland, the Advocate-General, in favour of the right of Government to resume possession of the

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\* Village elder, sort of Patel. † Collector's Diary, 1789.

‡ Materials, I, pp. 431, 434. *Ibid*, II, pp. 495-6. Warden, par. 88.

§ Warden, par. 99.

assessed lands, the efforts of the Town Committee to carry their plans into effect entirely failed. The holders ultimately succeeded in their opposition and in their desire to rebuild on the old foundations; all that the Committee was able to do was to take a portion of the ground for widening the streets which the inhabitants readily conceded.\*

Further clearance of the Esplanade, 1804.

While the inhabitants in the Fort and the old Town were offering every kind of opposition to the improvement of the portion destroyed by the fire, Government directed that the "Engineer's limit" should be cleared to the extent of 800 yards from the Fort and issued an order to this effect to the Commanding Officer of the Forces. A general proclamation was also issued on the 13th January 1804, ordering the clearance.† At the suggestion of the Town Committee certain area comprising the Salt Batty grounds was resumed and was made available for the inhabitants displaced from within the 800 yards limit. This area came subsequently to be known as New Town or Kamatipoora. The allotments of lands made in this New Town appear to have been made on the same terms as in the Old Town, viz., on payment of rent of 11 reas per square yard without any leases for definite period of time.

New Town or Kamatipoora.

Right of Government to resume lands contested.

The resumption by Government of the Salt Batty grounds for the accommodation of the inhabitants displaced from the 800 yards limit became the subject of a law-suit in 1805, when the question of the respective rights of Government and the holders of these lands was put to a legal test. It came before the Recorder's Court in an action brought by one Shaik Abdool Amlity against Nasserwanji Cowasji, but the Company were the real defendants, the nominal defendant being one of those to whom, in consequence of the extension of the Espla-

Shaik Abdool Amlity vs. Nasserwanji Cowasji.

\* Warden, par. 101-104; 109. † Collector's Diary, 1804.

nade an allotment of ground was made by the Collector, although it was in the occupation of the Plaintiff, who brought a suit for trespass against the person accommodated. The Plaintiff's case consisted in uninterrupted possession for upwards of 30 years, joined to a deed from which it clearly appeared that the property had been sold for a considerable consideration to the person from whom the Plaintiff derived his title so far back as the year 1772, and the deed was duly registered in the books of the Mayor's Court in 1775. The result of the trial was in favour of the Company, the Defendant obtaining a verdict; but in delivering the verdict the Recorder, Sir James Mackintosh, observed that, "though the eventual right of resumption might be known to many or most of the inhabitants the Company certainly suffered an expectation to be created, and very generally entertained that the right in question was one, the exercise of which was so exceedingly rare on their part, as not to require being very much, or at all, taken into account in the transmission of property from one individual to another; hence the large sums so frequently paid on such occasions; hence the loans advanced on the security of such lands and the imposing credit which they enable their possessors to obtain. While such things are familiarly known, and daily brought under the eye of Government, the unwary occupants may not have regular conveyances enabling them to maintain possession in a Court of Law, but they have to allege a tacit acquiescence, a presumptive right, which, in the eye of conscience and morality, gives them almost an equal claim to subsequent forbearance, and must, in every case of resumption where an adequate price has been bona fide paid, make the act appear and be felt as a grievous hardship, if not an open and down-right injury?"\*

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\* Warden, par. 161; Le Messurier, par. 17-20.



Thriepland's  
suggestions.

After the result of the litigation as a means of ensuring a due and perfect understanding on the subject of the Company's rights all over the Island, Mr. Thriepland, the Advocate-General, suggested certain measures. "No doubt," he remarks, "a regular survey of the Island followed by an examination of the several tenures would strike most effectually at the root of the evil. The various kinds and denominations of rent which are now the sources of so much confusion might then be reduced to some uniformity, the distinction in many lands founded upon differences, which no longer exist might be done away, the returns from the greater part of the Island might be increased and tenancy-at-will which prevails at present to an extent inconsistent with every principle of sound policy might be reduced much less general by the introduction of leasehold tenures for a term of years." He proposed that the receipts for the different kinds of the Company's rents should be in a particular form, that the body of the receipt should be printed with a clause sub-joined or prefixed in the native character in explanation of the tenure by which the land was held, the acts from which the occupants were bound to abstain and the powers which the Company had a right to exercise; all this should be comprised in a few words and as these receipts were generally the only vouchers which the occupants possessed in proof of title they could not give the purchaser possession or the mortgagee a valid incumbrance without disclosing what they had a right to sell in the one instance and to burthen in the other. Mr. Thriepland further suggested that on every occasion of a sale of land the party applying for registration might be obliged to subscribe to a declaration that no infringement of or encroachment in the right of the Company was intended but that those rights remained altogether unaffected.\*

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\* Collector's Diary.

Agreeably to these suggestions attempts were made towards carrying them into effect, at least as regards the new form of receipts in which the clause, as proposed by Mr. Thriepland was inserted; but resistance was made to it and the new receipts were almost universally rejected, and the collections were in consequence for a considerable time in arrears, when, from the dissatisfaction and complaints expressed on the subject, Government was pleased to order the clause to be expunged, thus restoring things to the same state as they were eight years before, when the Company had obtained a favourable judicial declaration of their rights.\*

One of the important measures which Government undertook about this time, viz., about the year 1811, was the commencement of the Revenue Survey † of the Island. This survey was commenced under Lieutenant Hawkins of the Engineer Corps and continued under Captain Dickinson of the Company's Engineers who was the Superintendent of the Survey for many years. It was finally completed under Captain Tate of the same corps in August 1827. The cost of this survey was Rs. 1,63,000.

Revenue  
Survey,  
1811-1827.

In 1813, Captain Dickinson having completed his survey of the Fort submitted his reports, dated 9th October and 3rd December 1813, in which he classified the different tenures under which the lands in the Fort were held, and suggested that, although the Company had an indisputable right to resume possession of the quit-rent and quit and ground rent lands, a compromise should be entered into with the proprietors, and leases should be granted to them for 42 and 63 years on the condition of their paying an increased rent equal to 20 and 36 reas per square yard. He also proposed an impost of 8 reas per square yard on all Pension and Tax lands. ‡

Dickinson's  
suggestions.

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\* Collector's Diary. † For detailed account, vide Chapter V.

‡ Revenue Surveyor's Diary, 1813.

Warden's  
observations.

Mr. Warden, Chief Secretary to Government, was directed to make observations on Dickinson's reports and generally on the land tenures in Bombay. Mr. Warden in his very able and lucid report of the 20th August 1814, has thoroughly reviewed the subject. He differed in opinion from Dickinson as to the right of the Company to resume possession of any portion of the ground within the walls of the Fort excepting such as might be held on special leases, contending that the ground, admitting it to have been originally Crown land, had by the custom of the manor changed its original character and become the permanent property of the landholders. He was, however, of opinion that the Government, having in various instances exercised the right of increasing and modifying the rents might again have recourse to the same measure.\*

Mr. Warden's own sentiments could however be gathered from the following extract from his report:—

"They (the Hon. Company) should be content with a moderate quit-rent as an acknowledgment of their sovereignty, and leave it to the industry of individuals to improve the property to the utmost advantage for their own benefit. The Government landed property should be rendered subservient to the increase of population, which naturally leads to increase of wealth. A greater revenue can at any time be realized by a small increase in the excise than by any augmentation in the rent on lands; and I am inclined to think that, if the whole of the rent on building grounds were to be equalised and permanently fixed at its present rate of 11 reas the square yard, the revenue would in the course of a few years, more than treble the utmost increase of assessment you can derive from the Island."†

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\* Warden, par. 69, 274.

† *Ibid*, par. 236.

With a view however to remove all doubts respecting the tenures created since Aungier's Convention, Mr. Warden suggested that the right of property should be declared to vest in perpetuity in the possessors and that the rents should be permanently fixed on principles just and equitable to the Company as well as to the individuals.\* He further considered it necessary "to frame and pass a Regulation for the future collection and management of the revenues of Bombay, which should not, however, be done until the survey shall have been completed, and a system of taxation established generally for the whole Island."†

While Dickinson and Warden were discussing the propriety of increasing the quit and ground rents on the lands in the Fort, Munro, the Collector of Land Revenue, was pressing on the attention of Government the question of raising the rent on the Salt Batty lands. "The greatest part of this ground," he says, "has now attained as high a state of cultivation as, I believe, it is capable of or equal to batty ground in general throughout the Island."‡

Munro's proposals regarding Salt Batty lands.

He proposed the levy from the cultivators of the Salt Batty lands of rent equivalent to one-third of the produce from these lands. On Mr. Munro's recommendation Government on the 1st of November 1813 published the following notification: "The Right Honourable the Governor in Council adverting to the very low rents which have hitherto been paid to the Honourable Company by their tenants-at-will of the new and old Salt Batty grounds, the last augmentation having been from 6 to 9 reas the square burga only, has resolved to increase the same in a nearer proportion to the value of the grounds. It is hereby therefore notified that one-third

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\* Warden, par. 274.      † *Ibid.*, par. 269.

‡ Collector's Diary, 1813.

of the produce of the above lands will henceforth be annually collected by Government commencing with the crop of 1814, and such tenants as refuse to comply with the above resolution of Government will be turned out of possession." The holders, however, strongly resisted, and denied the right of Government to anything more than the existing rent." \*

Macklin's opinion.

The case was submitted for Mr. Advocate-General Macklin's opinion, † and specifically on these points, viz.,

1st—Whether the Government possess the right of increasing the rent of the Salt Batty ground, and

2nd—Whether, in the event of the proprietors refusing to pay the increased rent the Government could resume possession of this description of property.

The answer of Mr. Macklin to both these questions was in the negative. He stated that from an examination of the evidence on both sides, it appeared to him perfectly clear that the native land-holders of Bombay of every denomination were originally invited to settle in the Island under the idea that the land allotted to them was given in perpetuity. That this was at least an implicit, if not an express, contract appeared to him equally clear from the various transfers of property that had since taken place with the knowledge of Government, amongst which were to be found many purchases by Government itself, from the very same tenants who were denominated tenants-at-will. Mr. Macklin was clearly of opinion that Government had right neither to increase the rent nor to resume the lands at their pleasure. In consequence of this opinion, the measure for increasing the rents was suspended, and the matter referred to the Honourable Court of Directors in 1815.

\* Collector's Diary, 1813.

† Le Messurier, par. 25-27.

The Court replied: "We think that, under all the circumstances attending the tenure of them the possessors have a fair pretension to consider themselves as owners of the inheritance, subject to the rents they now pay, and also subject to the burthen of keeping the velards erected for their defence against the sea in thorough repairs. We cannot but presume that the present possessors will gladly accept a recognition of their titles upon this condition, and we authorise you to set their minds at rest by making grants accordingly in perpetuity." \*

It appears however that these directions were not carried into effect, for, in April 1820 the Government wrote to the Court: "The liberal intentions of your Honourable Court of issuing grants in perpetuity in favour of these lands might be less exceptionally carried into effect by fixing the rents for the future at the highest of the existing rates, namely, 14 reas per burga, and by inserting a clause stipulating that in the event of any portion being hereafter required either for Military Cantonments or any other public purpose, compensation shall be made to the owners for the value of the improvement in buildings, trees, wells and tanks, to be ascertained by a jury, and not of the soil itself." †

But even this arrangement was postponed until the survey of the Island which was then in progress was completed.

On the failure of Government to annex a clause in Sanads, the rent-receipts, as suggested by Mr. Thriepand, declaratory of the Company's rights to resume possession of the lands held under the quit and ground rent tenure, Government introduced, in 1814, the new system of granting lands under 'sanads'. These sanads superced-

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\* Le Messurier, par 29.

† *Ibid*, par. 30.

ed the former "allotments" or "permits" and were clearly descriptive of the nature of the tenure and the conditions under which such grants were made.

Under the earlier sanads the grantees were mere tenants-at-will subject to eviction at the pleasure of Government, the grantees further engaging to pay such increased ground rent as might from time to time be fixed by Government.

This type of sanads was modified by Government in November 1823. In consequence, the grantees felt greater security in their tenancy and could hope for a more equitable return for the loss of their occupancy and for the value of the improvements made by them. Under the new type the ground was "at any time resumable by Government for a public purpose, six months' notice being previously given and a just valuation of all buildings and other improvements made thereon being paid to the owners", the amount of such valuation being determined by a committee appointed by Government. The issue of the sanads was countermanded by Government order of 24th July 1844 when Government ordered that none of their ground should be given except under leases for definite period of years.

Second Inam  
Grant.

In 1821, the second Inam Grant\* was made to the Wadia Family. Jamshetji Bomanji, to whom this grant was made was the Master-BUILDER in the Dockyard and, in order to testify to the Company's approbation of his eminent and faithful services in that capacity, the Governor in Council was pleased to grant to him certain lands in the islands of Bombay and Salsette, yielding an annual revenue of Rs. 6,000. The grant was made subject to the confirmation of the Court of Directors which was obtained in their despatch of the 22nd May 1822.

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Vide p. lxlvi.

The Revenue Survey, commenced in 1811, was completed in 1827, and, as suggested by Mr. Warden in his report in 1814, Government passed in that year a Regulation, No. XIX of 1827, embodying the principles on which the land-revenue should be assessed and collected, and giving legislative authority for levying certain taxes and fees. This regulation forms the basis of the present Bombay City Land Revenue Act. Regulation  
XIX of 1827.

Under this Regulation the chief controlling authority was vested in the Collector of Bombay subject to the Governor in Council. He was empowered to attach and sell by auction any land on which revenue was due equally with other property of the defaulter. Rules were also made for giving notice to the Collector of Bombay of all transfers of lands subject to quit or ground rents, penalty being enjoined in cases of failure to give such notice.

In February 1837, Government appointed a Committee known subsequently as the Rent Committee, to enquire into and report on the following points:— Rent Com-  
mittee, 1837.

1st. "The expediency or otherwise of revising and more nearly assimilating the great diversity in the rates of building ground rent payable to the Honourable Company, which obtains on the islands of Bombay and Colaba"; and

2ndly. "Whether the cultivators of the Salt Batty ground which skirts the whole of the "Flats" possess the right which they appear to have frequently exercised of disposing of it as Building Ground, without the sanction of Government."

This Committee submitted their report on the 28th April 1837. After dividing the tenures into three classes viz., "First :—Ground for building sites and other pur-



poses ; Second :—Ground under cultivation, paying what is called, “ Toka ” or a given share of the produce, and Third :—Ground used for cultivation and paying what is termed “ Foras”, or a very low rate of rent,” they observed as follows :—“The first class may, for the most part, be subdivided into ground held under a grant as old as the reigns of William and Mary and universally recognized as freehold or private property subject to the payment of a small tax called “ Pension and Tax,” levied in the lump or without any reference to specific quantity and ground paying an annual rent of 3, 6 and 11 reas the square yard according to circumstances or as its locality is or was supposed to be more or less favourable. The former or 3 rea rate is confined to Colaba and a good deal of the ground subject to it is held on renewable leases of 21 years ; it cannot therefore be revised. The 6 rea ground is also chiefly confined to Colaba. The 11 rea rate, with the exception of a very small quantity within the cantonment limits on Colaba, applies exclusively to Bombay, being held under sanads from the Collector's office, most of which is resumable on certain conditions therein specified.

“ Of the two other classes which have been advertised to, the first or what is known by the name of sweet batty ground, appears from time immemorial to have paid a tax in kind, equal to half the computed gross produce which is annually commuted into money at the market price of the day ; and in regard to the other, which in contradistinction is called salt batty ground, that is to say, land which by the construction of the Breach and other vellards on the Island, has been reclaimed from the sea, pays no more than 4 to 9 reas the square burga. These very low rates as compared with what is paid by the other appear to have been fixed with reference to the originally inferior quality of the produce of such land.”

As regards the right of Government to revise and raise the several rates, they continue: "First then with respect to the "Pension and Tax" ground, as the rate to which it is liable, would seem to have been invariable for nearly 80 years, or since 1759, and was only then assessed to the additional rate called "Tax", the other or "Pension" having existed since the time of the Portuguese, for an extraordinary purpose, viz., to defray the expense of strengthening the defences of the Island, it may fairly be inferred that nothing short of some great emergency would ratify any deviation from what has been sanctioned by such long prescription.

"Secondly: As the Toka ground has long been subject to as heavy a tax as it can afford to pay without driving it out of cultivation, it would be needless to argue the question of a right to increase it seeing how inexpedient, if not impracticable, would be its exercise.

"Thirdly: The right of altering the 3, 6 and 11 reas rates for building ground, would seem to be fully implied from the single fact of such diversity of rate originating in the supposed more or less favourable locality of the ground subject to them, at the period when they were fixed.

"That such a right as also the right of ownership still appertains to the Honourable Company with respect to all the Foras grounds in the Island of Bombay rests on still stronger evidence, nor do we entertain any doubt as to the expediency of exercising it. It is not, we think to be supposed that in imposing such a low rate as 9 reas the square burga on this ground as compared with the other, which has been adverted to, on account of its inferiority at the time, the Company could have intended for ever to divest itself of the power of raising it at some future period, or when by the mere operation of

time, and without any extraordinary expenditure on the part of the cultivators, it became of equal value or was employed for other than the purposes for which it was originally granted. As the claims that were put forward in those days (1805-06) would appear to have been disallowed both by the Governor and the Recorder's Court after a great deal of inquiry and discussion, under these circumstances and with reference to the facts we have adduced as so peculiarly distinguishing this from all Company's ground, Government seem to us to possess an undoubted and indefeasible right to dispose of the whole of it, as to them seems best."

The Committee further proposed that the whole of the Foras ground under cultivation to the south of the Bellasis Road should be resumed, but not without compensation, which should be at the rate of five years' foras; and that the holders be further offered gratis building sites bearing some proportions to the grounds resumed. With respect to the occupants of the ground to the north and east of Bellasis Road, the Committee submitted that they should for the future be debarred from using or disposing of any part thereof for building ground without the sanction of Government. Further, that the rate then payable on what was still used for cultivation should be raised so as to bear a closer approximation to the Toka grounds.

In reply to the report of the Committee, Government, while concurring with the Committee as to the right of Government to resume the foras lands and to increase the rent on them, expressed the following sentiments: "In consideration of the great length of time for which the occupants have been allowed to retain undisturbed possession, the Governor in Council feels that it would not be consistent with the principles of a mild Government to resume these lands without such a value

## INTRODUCTION.

xxxiii

as with building sites gratis in other parts of the island would be considered a just equivalent"; and "that the resumption of it would be very unpopular, and the permission to build should expressly reserve the right of Government to resume the ground for roads, streets or Government buildings, or other public purposes, paying only the value of the buildings thereon."

This reply is dated December 1837 and shortly afterwards, in 1838, the Grant Road was commenced and the ground on which it is constructed was taken without compensation from the occupants thereof, and without a murmur on their part. \*

From 1841, for nearly a decade, a great contest was maintained between the Honourable Company and the owners of the Salt Batty lands in consequence of Government having resumed certain plots of ground near the Race-Course for the purpose of stacking hay, without paying any compensation to the occupants thereof, Government conceiving the ground to be the property of the Company and the occupants to have been merely the tenants-at-will, the occupants themselves setting up a claim of adverse possession against the Company. A memorial signed by over 700 persons was sent to Government, in which the memorialists professed to show their title to the lands at great length and concluded with the following prayer:—

Contest between the Company and the holders of the Foras lands.

(1) "That no land, occupied whether directly or derivatively through a succession of generations, be resumed at the pleasure of Government;

(2) "That the lands already resumed or under process of resumption be restored; and

(3) "That no Foras lands or Salt Batty lands under Foras tenure, be ever subject to any other than the ancient rate of taxation." †

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\* *Le Messurier*, par. 35.

† *Ibid.*, par. 1-3.

The memorialists claimed the ground as their own fee-simple \* inheritance subject only to the payment of the small nominal quit-rent charged upon it, and they appeared particularly to complain of having been ousted, not for any public benefit or purpose, to which the ground was to be converted, such as a public road or other work, but to make room merely for private individuals, who were allowed to stack their hay on this land, rent free. †

Le Messurier's  
opinion.

The memorial was sent to the Advocate General, Mr. Le Messurier, for his opinion and report, and he expressed the following view: "The payment of rent in ordinary cases is the best and most conclusive proof of title between landlord and tenant, but in a case circumstanced like the present and standing by itself, it affords no more than proof of title to the rent and not to the land itself. ‡

"On behalf of the tenants; the claims they have to urge in support of their rights are undisturbed adverse possession for 20 years, 40 years, 60 years and more, by themselves or their ancestors or those through whom they claim, not merely possession, but an adverse possession, in opposition to and in defiance of the Company's rights. The registry of their deeds and instruments of transfer in the Collector's office prove, too, not only their opposition but knowledge of the Company or their agents of such opposition and usurpation of their rights, and the acquiescence of the Company—long and unresisted acquiescence (at least not resisted with effect) in such usurpation; and thus, by allowing the occupants to deal with the lands as their own—to sell and dispose of them as their own property; and purchasers under this belief buying them for value, and enjoying them as

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\* Inheritable and of a permanent nature.

† Le Messurier, par. 5. ‡ *Ibid.*, par. 52.

their purchased free-holds, the Company by such conduct are now, by the common principles of equity concluded and stopped against them from asserting their own rights.\*

“I therefore think, that if litigated, the memorialists would be able successfully to establish their title to these lands, subject only to the rent payable in respect of them and which, Government, in my opinion, have not now, at the present day, the power to increase as original landlords of the soil. Any increase, if necessary or expedient, must be by way of a tax, which can only be done by a law for the purpose.”†

On this report Government on the 4th of April 1844 passed the following order:—“This report which gives a clear history of the origin of the Foras tenure establishes beyond doubt the proprietary right of Government to all lands of this description, but considering the circumstances which are noticed by the Advocate-General of the occupants having been led to look upon these lands as their inheritance, the Governor in Council is unwilling to authorize any general measure of resumption, and is therefore inclined to the opinion that after reserving such spots as are likely to be required for works of public utility either immediately or at any future period, so that Government may be secured against the risk of having to pay for them, the proprietary rights, for which the present occupants contend, may be conceded in respect to the rest of the lands on some tenure recognised by English Law and not liable hereafter to be disturbed; the present rate of assessment being either redeemed or left on the land with an assurance from Government that it shall never be raised. In making such arrangements as are here contemplated it will be necessary to be very

Views of  
Government.

\* Le Messurier, par 53.

† *Ibid*, par. 54.

careful to guard against giving them the character of a compromise, since such a course may probably be construed to imply a doubt as to the validity of the rights asserted by Government."

The Foras  
Act.

As a result of this, the rights of the Company over all the Salt Batty lands excepting some which were reserved for public roads and tanks were extinguished in favour of the individuals who held the same respectively as the immediate rent-payers to the Company subject to the rents then severally payable in respect of them and the Foras Act, \* No. VI of 1851, was passed embodying the above conditions.

Transfer of  
the Island to  
the Crown,  
1858.

The most important event which happened in the year 1858 was the famous Proclamation, † of 1st November 1858, by Her Majesty the Queen in Council, transferring the Government of the Territories in India to the Crown. The transfer has been embodied in the the Government of India Act ‡ of 1858.

Showell's  
Report.

In 1859, by Resolution No. 3616, dated 7th September 1859, Government asked the Collector to consider the advisability of raising rents on Government lands generally throughout the Island and called for a report on the subject. Mr. Showell, the Collector, took the opportunity of discussing the landed rights of Government at great length. In his report No. 109, dated 24th February 1860, Mr. Showell says:—

"It would appear that while the right to raise these rents has ever been asserted by the Government, and on various occasions exercised even over the lands constituting what is called private property, or lands in which a proprietary right had been acquired either from

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\* Vide Appendix B.

† Vide Bom. Govt. Gazette, dated 2nd Dec. 1858, Pt. I, p. 791.

‡ 21 and 22 Vic., C. 106.

the Portuguese Government or under the British Government, the practice has rather been to increase these rents only on some very pressing emergency. They were, however, kept sufficiently moderate to attract settlers on the Island, which was an object deemed by the Honourable Company, at a very early period, as of paramount importance, based on the expectation that Bombay, from its position, would become, as it now is, a great commercial emporium, drawing a revenue from other sources far exceeding anything the land could ever yield.

"A general revision and allotment of assessment on the Government lands on the Island is manifestly called for.

"I am decidedly of opinion that, as a primary measure, a carefully executed Revenue Survey of the whole Island, accompanied by a settlement of boundaries and rights of holdings, is indispensable. Revenue Survey required.

"What is essentially necessary for the purposes of this department in particular and for those of the landholders in general, is a detailed Survey of the individual holdings; and for this end titles of the parties claiming to hold them would necessarily have to be examined and tested, not with the view generally of resuming land for which there was no title but of ascertaining whether it was assessed to the Government Revenue or not.

"I shall now proceed to the question of the rents. I do not think that the mode of adjusting them would be a matter of any perplexity, as nothing of a classification of soils and their productive powers is required as in the agricultural districts in the interior.

"I think that one or two of the lowest rates for the rice, and one of the middling grade for the mere garden ground, would perhaps suffice; and finally the highest Proposed revision of rents.



or the 6 pie rate per square yard, might be laid on ground occupied by buildings; I mean that this latter should be classed as building ground, and brought under this rate of rent under special rules to be provided for the purpose.

“By way of endeavouring to make myself understood, I would adopt some such plan as dividing the land in our maps into squares of say five acres; and when one-half of this area came to be covered with buildings as it would do accordingly as the locality rose in importance I would take it as conclusive that the building rate could be applied in supersession of what may have been levied before. It would not be difficult in the progress of the survey to devise the plan that would answer, perhaps, better than any I could now suggest.

“The above plan would leave all dwelling houses having large compounds, and thinly scattered buildings, free from the building rent, which would press extremely hard on them; and where the Government was not the sole landlord, the Government building rate should be on the most moderate scale more rather to secure the recognition of their right to the levy than to swell the revenue.

“The highest rate of rent which it had been deemed advisable to fix is six pies the square yard: this comes to Rs. (151-4-0) one hundred and fifty-one and four annas per acre, and is a heavy tax on the generality of the occupants of the land. It was these classes mostly which it was the traditionary policy to attract to the Island. I would not increase their burdens, seeing they now contribute largely to the sayer Revenue, and to the Municipality besides.

" I am thus very respectfully of opinion that the rent of six pies per square yard on the ground now paying it should be fixed as the maximum. If a rent at 11 reas was deemed reasonable in Mr. Warden's time it may be deemed at least equally so now, when landed property has so greatly enhanced in value.

" The above observations have reference of course to what is expressly styled Government land. But a large portion of the Island comprises "private land" such as that paying Pension and Tax. It is a question whether Government would, on due deliberation, deem it proper to raise or modify the taxation on such property. I have suggested the application of a building ground rent. This I conclude could only be imposed on these private lands, in event of its being resolved to exercise the prerogative, which it has been maintained, belongs to Government."

In a further letter No. 264, dated 4th May 1860, Mr. Showell submitted certain specific grounds on which he thought a survey was necessary.

Mr. Showell urged the necessity of an immediate survey. Captain Francis, Superintendent of the Thana Revenue Survey, to whom the subject was referred, also urged in his report of 22nd January 1861, the necessity of commencing operations as soon as possible. He estimated the cost of the survey of the Mahim Division at Re. 1 per acre. Mr. D'Oyly who succeeded Mr. Showell again pressed the question of the survey on the earnest attention of Government. As a result, in July 1864, Captain Waddington was deputed by Government to proceed to Bombay for the purpose of examining the existing maps of the Island, to inquire into the tenures and finally to suggest a plan of operations necessary for the survey of the Island. Captain Waddington made his

report in the succeeding August. He therein discussed the *modus operandi* as well as the nature of the principal existing tenures and urged that no time should be lost in obtaining the sanction of the Government of India. In October of the same year the sanction of the Government of India was applied for and actual operations commenced in the month of November.

Laughton's  
Survey.

This Survey \* which is popularly known as "Laughton's Survey" occupied the next seven years (1865-1872).

Dismantling  
of the ram-  
parts.

In 1861, Government appointed a Committee on the subject of the land fortifications on the Island of Bombay. This Committee recommended the demolition of the existing ramparts and the turning of the ground set free to useful and profitable account. The Committee's recommendation was approved by the Secretary of State in his despatch of 17th June 1862, in which he states: "After reserving what will be required as sites for the new forts, and what must be kept clear round the forts, there will remain a very considerable area available for building and other purposes. . . No building lots ought to be sold, or otherwise disposed of, until not only the general arrangement, but also the style and character of the buildings to be erected shall have been carefully considered, and a comprehensive plan shall have been matured in conformity with the conclusions arrived at. In framing such a plan, regard should be paid not merely to accommodation and convenience of the public, and of individuals, but also, in some degree, to architectural effect. An opportunity, not likely to recur, will now be afforded of building almost a new city in the Island of Bombay, and it may become a permanent subject of national reproach if due advantage be not taken of the occasion."

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\* For a more detailed account, vide Chapter V.

In November of the same year Government appointed (1) an Executive Committee to consider and propose definite plans for the construction of roads, for a complete system of drainage and water supply and for the appropriation of the space available for buildings and (2) a Consultative Committee who were to offer their own remarks on such proposals.

The Executive Committee was known as the Rampart Removal Committee. A list of the public buildings which were urgently needed was made and after selecting suitable sites for these, the Committee recommended that none of the ground be disposed of in Fee-simple but in leases of 99 years. They further recommended that the form of the leases should be obtained from England.

The form of the leases was however settled by the Rampart Removal Committee in consultation with the Solicitor to Government and was approved by Government in July 1864. The term of these leases was for 999 years. The lessees were to erect, within 3 years from the date of agreement, their buildings in a substantial and workmanlike manner; while the plans and elevations were to be approved by Government. To secure reversion of the buildings in sound condition at the end of the term of the lease, the lessees are obliged to keep the buildings in sound repairs and to insure them and in case of fire or other accident the buildings are to be rebuilt to the satisfaction of the Government.

The leases on  
the Esplanade.

In 1876, Government passed the City of Bombay Act II of 1876. This Act repealed the Regulation No. XIX of 1827, the provisions of which were found inadequate for the purpose to which they were applied. The principles of that Regulation were in the main adhered to and the only portion which was entirely new

was that which related to the new survey and to the maintenance of the survey boundary marks. This Act with certain amendments made in 1900 is the basis of the Land Revenue Administration in the City of Bombay.

Reassessment  
on Toka  
lands, 1879.

The next important event, which took place after the passing of the Act, was the revision of the assessment on the Toka or Sweet Batty lands. The assessment on these lands was for a long time paid in kind and represented half the produce of the lands which was, every year, commuted at the market price determined by Government, although from 1837, the rate of commutation remained fixed at Rs. 20 per moora \* of rice. In 1876, the Collector, Mr. Arbuthnot, suggested a reassessment of all Toka lands on the basis of the new measurements of the Revenue Survey which had just finished. In suggesting this Mr. Arbuthnot said: "The produce of these lands is various. On some of it rice only is grown, other parts of it give good garden land, some is built upon, some is worked as stone quarries, from some of it earth is taken for reclamation purposes and some is kept waste for grass and grazing. There have been no previous surveys of Toka and Foras-Toka lands and as I find it impossible to make the old Collector's numbers tally with the new Survey numbers in any way either as regards area or ownership, it is better to reassess the whole on the basis of new survey numbers.

"It is impossible," he added, "in Bombay to charge different rates for rice land, garden land, building land, grazing land, &c. The rice field of to-day is built on to-morrow and the most regular and equitable system appears to be to place one low uniform rate on all land as the Crown assessment, guaranteeing that rate in perpetuity or for 50 years, as Government may decide."

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\* Moora = 2,000 Seers.

The scheme proposed by me is simply to place one uniform rate of assessment on all toka land, leaving the owners to do what they like with their land, build on it, grow rice or other produce on it, or turn it out into quarries or use it for grazing". "Considering the position of these lands, the population of the Island of Bombay, the nearness to markets and the ready sale for everything that is brought there, I do not consider that the rates I have fixed are high and I trust therefore that they will meet with the approval and sanction of Government."

The rates of assessment suggested varied from  $\frac{1}{3}$ rd pie to 1 pie per square yard in different localities. These were sanctioned by Government in August 1879 and have been guaranteed for 50 years.

In consequence of Mr. Arbuthnot's revision several Revenue Suits were filed. One of these (Shapoorji Jivanji vs. The Collector of Bombay)\* was taken as a test Suit and transferred to the High Court. The case was decided in favour of Government, the Court declaring that the Plaintiff had no right in limitation of the right of Government to assess the land. The right of Government to increase the assessment over these lands was clearly established.

Shapoorji Jivanji vs. The Collector of Bombay.

In 1885, the third Inam Grant† was made to Khan Bahadur Jamschetji Dhunjibhoy Wadia, in consideration of his valuable services in His Majesty's Dockyard, of land, aggregating some 307 acres, at Sion and Dharavi. The sanction of the Government of India was applied for and obtained on the 17th June 1885. The grant was made rent-free in perpetuity.

Third Inam Grant, 1885.

\* I. L. R. IX, Bom. 483.

† Vide page lxlix.

Suggestions  
for increase  
of assess-  
ments, 1889.

In 1889, Mr. Charles, then Collector of Land Revenue, pointed out to Government the general inadequacy of the rents levied on lands in Bombay, and suggested an increase wherever possible in the assessment so as to bear some proportion to the increased value of the land. Mr. Charles proposed that the rental should be increased to nearly five per cent. on the market value "as 20 years' purchase was about a fair valuation for lands."

Leases Com-  
mittee, 1891.

To give effect to Mr. Charles' proposals and to settle the policy as regards the future assessments or new grants of Government land Government appointed, in March 1891, a Committee consisting of the Collector of Bombay, the Superintending Engineer and the Solicitor to Government, to consider and report on (i) the terms for which leases should be granted and (ii) the principle on which the ground rent should be determined. This Committee made its report in February 1892. After giving a short summary of the existing leases the Committee divided their proposals under the following heads:—  
(i) The disposal of occupancy rights; (ii) the fixing of ground-rents; (iii) the term of the lease; (iv) the renewal of the lease; (v) the treatment of improvements, and (vi) the architectural stipulations.

With reference to the first point the Committee stated that the best mode of disposing of the occupancy right when the value of it was not known was by an auction; while tenders were best suited for the disposal of larger and valuable areas. They further suggested that the amount taken as ground rent should be limited to a rent which represents two-thirds of the full value of the lands, and that the remaining one-third or any additional amount which the competition among the tenderers or at an auction sale may secure should be realized in a lump sum at the time of transfer, as initial fine or occupancy

price. As regards the ground rent they suggested that four per cent. should be fixed as the maximum ground rent. "It has been contended" they observe "that five per cent. may fairly be levied. We incline to think four per cent. is as much as can be safely taken. The Collector's experience is that over considerable tracts in Matoonga, Sion and Mahim, land even with houses does not yield more than three per cent. on its market value. The rise to four per cent. though both justifiable and advisable was a serious addition to the burden on many lands, from which, with the object of attracting settlers, Government had hitherto levied almost nominal rents."

The Committee disapproved of any increase in the rents during the term of the lease "as such arrangement practically reduces the term of the lease to the term of revision" and were in favour of fixed rent during the currency of the lease. The terms of the leases were fixed at 99 years in the case of lands (e.g. in Fort) where on general considerations architectural conditions were to be enforced. In the more outlying parts where no conditions in excess of the Municipal building rules were necessary a 50 years' lease was considered sufficient. As regards arable land, seeing that no capital is invested in it and that the land may at any time be required for building, a 10 years' occupancy guarantee was considered to be a sufficiently long term. One renewal of the lease was recommended by the Committee only in the case of 50 years' building lease. As regards the revised rates to be introduced at the close of the original lease the basis of a maximum of a 4 per cent. return on the value of the land at the time of renewal was recommended.

In the treatment of improvements the Committee recommended that the stipulations for repair and resignation should be insisted on in the case of 99 years' leases but in the case of lands held on 50 years' building leases



no such stipulations should be made and that at the close of the term the lessee should not be prevented from removing his improvements. The proposal that Government should take over improvements at a valuation was found open to the objection that in times of depression Government might be saddled with properties inconvenient to pay for and still more inconvenient to manage.

As regards architectural conditions Government lease-hold land was divided into two classes:—(a) Important sites where a special style of building is required; (b) other sites. Under (a) came the Esplanade, Marine Lines and Chanpati Estates. For lands of this class the architectural conditions in force in the Esplanade leases subject to certain modifications were recommended to be continued. For all other sites the Municipal building regulations were considered a sufficient security against the erection of insecure or unsightly tenements.

Committee's  
recommendations approved,  
1892.

The recommendations of the Committee were approved by Government in June 1893 with the modification that the amount of annual rent per square yard should not be less than one-third nor more than two-thirds of the estimated value as this would give a safe rental and would leave a sufficient margin for competition. These form the basis of the present land revenue policy of Government. In November 1910, the Governor in Council was pleased to direct that "ordinarily the annual rent should be calculated on the full value of the land and no premium should be payable. The Collector however should have discretion, in which such a course appears advisable, to take as occupancy price a portion not exceeding one-third of the whole value of the land and to calculate the annual rent on the remainder only. The Collector should also have discretion to demand the first two years' rental in advance."

1910.

## CHAPTER II.

### REVENUE HISTORY OF COLABA.

Under the appellation of Colaba are included what were at one time two distinct islands : that of Colaba and Old Woman's Island. They were joined to each other and to Bombay by means of causeways about the middle of the 19th century. The original right of the Honourable Company to the proprietorship of the islands is founded on the 10th and 11th Articles of the Convention\* concluded between Sir Gerald Aungier and the Portuguese inhabitants of Bombay on the 12th of November 1672.

Colaba and  
Old Woman's  
Island.

The Old Woman's Island appears to have been let on a farming lease to Mr. Richard Broughton. The date of this lease is not known ; but it expired in 1743, and was renewed to the same tenant for 21 years at the previous rent, viz. Rs. 200 per annum, plus a fine of one year's rent for the renewal.†

Lease of  
Old Woman's  
Island.

This lease of 1743 expired in 1764, and the whole island, with the exception of a portion which Mr. Broughton had converted into an oart, was again rented to his heirs for Rs. 300 per annum : such parts of it as they could cultivate with cocoanut trees, for 21 years, the remainder for 14 years. ‡ At the expiration of the lease, however, in 1778 and 1785, the island was not resumed and it continued to be enjoyed by the successors in title of Mr. Broughton for a long time without payment of rent.

The oart which reverted to the Company in 1764, out of Mr. Broughton's lease, was put up to public auction in the same year and sold to Mr. Shamji Narron Shet for Rs. 7,500 on the condition that the purchaser should

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\* Vide Appendix A.

† Materials, III, p. 315. ‡ *Ibid.*, pp. 424—7.

have free access to the island, and that should the Company at any time have occasion to cut down any of the trees, the purchaser should be indemnified for the same. No regular document relative to this sale was drawn up except a memorandum of the receipt of the purchase-money of the oart signed by Mr. Kalsey, an Assistant Collector, on behalf of the Honourable Company.

A portion of this oart, containing 10,705 square yards, is held by Government on lease from Sir Jamsetji Jijibhoy for 99 years from 1818, at a yearly rent of Ra. 300. The lease is renewable at the same rent, at the pleasure of Government. This plot is included in the present Gun Carriage Factory premises. The rest of the oart now forms part of the Colaba village and is held under the pension and tax tenure, the present Fazendars being the descendants of the original proprietor Shamji Narron Shet.

Government  
Orders, 1784-  
1785.

In the year 1784-85, Government, not wishing to undergo the expense of furnishing tents for the officers, as had been customary till then, but desiring to canton all the Europeans the whole year at Colaba, ordered the officers to build themselves temporary houses.

General  
Order, 1789.

This was repeated in 1789 in a general order passed by Government under which the officers belonging to the corps in Colaba were, on application, permitted to erect temporary huts in such manner and in such places as the Deputy Quarter Master General would describe and point out. But these orders appear to have been generally misunderstood and a number of permanent houses were erected by the Military officers in Colaba, between the years 1784 and 1793. This attracted the notice of Government and in 1793 they instituted an inquiry as to the tenure on which the various properties on the island were held. This inquiry

## INTRODUCTION.

xlii

showed that in every instance permission had been given by the Commanding Officers without any lease or document whatever. Government thereupon declared that they had never intended to permit the erection of any permanent private buildings on the Island of Colaba, and in consequence, new regulations were published by the General Government Order on 3rd July 1793, declaring the houses built thereon to be subject to Military Regulations.

This order of the 3rd July 1793 ran as follows :—

General  
Order of 1793.

“As it never was the intention of Government that houses of a permanent construction should be built on the Island of Colaba, which was a place of cantonment for the troops, and, when permission was given to officers who were doing duty there, it was only to erect temporary buildings instead of tents; the various buildings which have been erected by individuals are not to be considered as Civil buildings, as they actually form part of cantonments and are subject to Military Regulations, and as the present proprietors cannot produce any legal title-deeds, they must conform to the following rules, which we find it absolutely necessary to establish for the good of the service :—

“That a Committee of officers consisting of one Field Officer and two Captains assisted by the clerk of the works be appointed to inspect and report the accommodation which each house can afford, dividing them into three different classes, viz., Field Officers, Captains and Subalterns.

“That as soon as the houses are thus classed the proprietors are to be informed that they must not ask higher house-rent than officers of the above ranks receive from the Company, and if they do not think proper to conform to these regulations, their houses will be pulled down.

## INTRODUCTION.

"That on these conditions and with permission first obtained from Government houses may be transferred."

The Collector was asked to take proper care that no houses were erected without the permission of Government.

### Alienations.

The Government of 1802, considering the prospect of a general peace and the improbability of stationing such a number of troops at Colaba or Old Woman's Island as to require the strict enforcement of the Regulations of 1793, considered that a modification and conditional repeal of these orders might improve the value of the possessions of individuals and insure a just and moderate quit-rent. A general survey of these islands was ordered and after a sufficient allotment of ground for cantonment had been made, the rest of the land (not already alienated) was ordered to be granted in perpetuity on long leases, subject to a reasonable assessment or quit-rent. General Nicholson, then commanding the garrison, protested against this suggestion. In spite of his objections, the Collector had at different times granted various leases, the existence and nature of which were in many cases forgotten and the grounds were claimed as private property. In this way numerous encroachments were made by the time the Revenue Survey of the islands was commenced, though the rules prescribed by the Government General Order of 1793 were still in force in respect to most of the houses in Colaba, the proprietors being obliged to rent them to Military officers at rates fixed by a committee of officers.

Dickinson's  
Survey,  
1814.

Captain Dickinson finished his Revenue Survey of Colaba and Old Woman's Island in 1814 and made a report on the 24th January of that year, in which, after enumerating the various tenures which prevailed on

## INTRODUCTION.

li

these islands, he described how the Company's rights were encroached upon and lands were held by individuals in excess of what they had a right to, without payment of rent. In the village of Colewady, for instance, which consisted of nearly 116 huts, only 11 of the occupiers paid rent; while most of the houses in the Bazar were erected without any permission at all. A village subsequently known by the name of Covilpura, consisting of 128 huts, had grown on the southernmost part of the island where only four out of 128 occupiers were assessed to revenue.

With regard to the village of Colewady, Dickinson suggested an annual rent from the occupiers of the houses at three different rates, viz., on houses of the first class Rs. 3 per annum, on houses of the second class Rs. 2 per annum and on houses of the third class Re. 1 per annum. From the occupiers of the huts in Covilpura he suggested the levy of a Rupee per annum from each, while he recommended that all the shopkeepers in the Bazar should be considered as tenants-at-will and made to pay 20 reas a square yard for the ground occupied by them.

In respect of the other lands Dickinson suggested that ground of every description should be made chargeable with a uniform rate of 8 reas per square yard per annum, which in some cases meant a reduction from 11 reas a square yard.

Government approved of Captain Dickinson's recommendations excepting the reduction from 11 to 8 reas and on the 11th of April 1815, issued instructions to the Collector to that effect.

In consequence of these orders of Government, the Collector issued, on the 1st of May 1815, about 150 sanad grants to the occupants of land in the Bazar and in the Covilpura village, under which they were constituted mere tenants-at-will.

Sanad Grants,  
1815.

The tenants in the bazar refusing to receive the grants at more than 11 reas the square yard and representing their case to Government for more favourable consideration, Government were, on the advice of the Advocate General, pleased to order, on the 1st July 1815, that the rent should be reduced to 11 reas the square yard. The grants of 1st May were accordingly made at the reduced rates.

On the 25th August 1821, Government passed a general order declaring the Island of Colaba including Old Woman's Island to be a Military Cantonment subject to the Regulations of 1793.

Committee of  
1822.

In August 1822 Government appointed a Committee consisting of the Collector of Bombay, the Revenue Surveyor and the Company's Solicitor, to consider the nature of the leases which should be granted in respect of the lands in Colaba and in Old Woman's Island and to submit a plan for the future of levy of rents and revenues of those islands.

This Committee, after referring to the limits of the Military Cantonment as recommended by His Excellency the Commander-in-Chief, "comprehending that part of the Island from sea to sea between the Lunatic Asylum and the northern boundary walls of Mr. Morley's and the late Mr. Hunt's premises and the Officer's quarters", suggested, in their report of 16th November 1822, that the land outside those limits should be exempted from the Military Regulations of 1793 and that the owners thereof be granted regular leases which would ensure substantial class of buildings being erected on these lands; that the leases should be for 21 years renewable upon payment of a fine of Rs. 100 at the rates of 3 reas per square yard per annum, with a further condition of the non-appropriation of the ground

to the cultivation of any description of trees from which toddy was produced. As the occupants of the ground situated in the cantonment bazars and all other sanctioned tenements within the cantonment, the Committee proposed the levy of rent at 11 reas the square yard, the holders being clearly given to understand that they were merely tenants-at-will and had no right to transfer their property without previous sanction of Government through the Collector.

The Committee's proposals were approved by Government in their Secretary's letter No. 1537 of the 29th November 1822. A revised survey was ordered and the Collector was authorised to issue a proclamation that persons who failed to apply to the Collector before the 15th of December 1822 for taking leases would be considered as only tenants-at-will and charged for the ground in their occupation at the increased rate of 11 reas the square yard. The form of lease was suggested by the Collector. It was approved by Government in Government letter No. 1760, dated 22nd November 1823. It was, however, soon afterwards discovered that the rights intended to be reserved to Government in respect of the ground within the limits of the cantonment had been already forfeited. On the 1st of July 1828 Mr. Warden, then Collector of Bombay, reported to Government that certain occupants within the cantonment limits refused to pay rent at 11 reas and recommended that the same be reduced to 3 reas. This was approved by Government in their No. 1442, dated 19th August 1828.

In September 1836, the Collector recommended the grant of certain piece of land on Colaba to one Edulji Framji. The Collector was in reply informed that under "recent" orders of the Court of Directors directing that no more ground be given away to any one on Colaba, the application of Edulji Framji could not be complied with.



Court's  
Orders, 1836.

The Court's orders alluded to above were contained in paragraph 18 of their despatch to this Government of 18th May 1836, and were in the following terms :—

“As the value of the property on the island is likely to be considerably increased by the causeway and as it may be necessary hereafter to station an additional number of troops there, it is expedient that Government should retain the ground in its own possession.”

Despatch to  
the Court  
of Directors,  
1837.

In the same year, however, there were applications for ground in Colaba and the subject of the granting of vacant ground on Colaba was again submitted for the consideration of the Honourable Court in 1837. A despatch from this Government to the Court of Directors, dated 15th February 1837, runs as follows :—

“We have the honour to draw your Honourable Court's attention to our proceedings respecting an application made by a number of respectable European and Native merchants of this place for the grants of some land on Colaba or Old Woman's Island.

“The ground required by the merchants is at the northern extremity of the island and the greater portion about 5/6th of it, must be reclaimed from the sea. The principal object originally in view was the erection of screws for pressing cotton; but this project was soon abandoned and the merchants then proposed, after they should have reclaimed the land, to construct a wharf and a line of warehouses for the deposit of merchandize, and to excavate a canal to ensure constant smooth water for boats lying alongside the wharf. The precise expense of these works could not well be estimated, but the merchants pledged themselves to spend from one and half to two lakhs of rupees in erecting warehouses and other buildings for commercial purposes.

## INTRODUCTION.

15

"It was of course our duty, on receiving such a proposal, to weigh well and carefully on the one hand, the advantages to be expected from a compliance with it, and on the other, how far it was competent to us to comply with it, consistently with the orders of your Honourable Court that further grants of the unoccupied lands on the Island of Colaba should not be made.

"On the first of these points little room for doubt could be thought to exist. A public benefit was proposed; the whole expense and risk of attaining which benefit were to be incurred, not by the Government but by the individuals subject only to this qualification that during a certain period Government were to alienate a small extent of land, which is now lying totally useless and the far greater proportion of which is actually covered by the sea.

"On the other point more doubt might reasonably be entertained. We accordingly gave it our best consideration, and we decided it in a manner which your Honourable Court will deem correct.

"In directing that all the waste land on Colaba should be retained by Government we did not conceive that it was intended by your Honourable Court that because it might be necessary hereafter to station more troops on Colaba, therefore a small part not properly of Colaba but of Old Woman's Island, which at this moment is rather sea than land and which, unless that very reclamation from sea which is proposed, takes place, never will be fit for any residence at all, should be kept in its present state of uselessness at the expense of thereby frustrating a project which promises to be highly beneficial to the commerce and prosperity of Bombay and its dependencies. Under this impression we came

to the conclusion that nothing in your Honourable Court's orders precluded us from acceding to the proposal, and with the importance of availing ourselves of an opportunity which some alteration of purpose on the part of the applicants might take away, and deciding at the same time to afford every facility to the commercial interest of Bombay at what we apprehended to be an important crisis in their progress, we did not consider it necessary to await the result of a reference to your Honourable Court before we should make the grant solicited by the merchants.

"As an undertaking of the kind proposed will tend very materially to promote the commercial interest of Bombay and as the prospect of an adequate return for the outlay must be distant and doubtful, it would, we conceive, be equally unwise on the part of the Government to cramp the enterprise by making over the ground on any but the most liberal terms. Influenced by these considerations, we have granted the ground required by the merchants rent-free for fifty years, on the expiration of which it is to be subject to a rent of 3 reas per square yard, the rate at which it has heretofore been usual to lease the ground on Colaba.

"From the correspondence which we have now the honour to forward, your Court will perceive that in making this grant due attention has been paid to the interests of Government and of all the parties concerned; and we trust that our proceedings on this subject will meet with your Honourable Court's approbation.

"As the value of the ground on Colaba will be much increased when the causeway shall have been finished and as many applications will no doubt be made by private individuals for vacant spaces on which to erect dwelling houses, we beg to submit for the consideration of your Honourable Court whether such ground might not be

granted subject to the conditions upon which ground is at present rented on the Island of Bombay, within what is called the Engineer's Limits, namely, on payment of the established ground-rent per square yard and resumption by Government at any time, if required, without any compensation to the grantee.

"Under such a plan, the vacant ground, instead of lying as at present useless, would be made to contribute to the resources of the State without any sacrifice of your Honourable Court's fiscal interests, since, whenever it should be wanted for public purposes, the occupants could be ousted on suitable notice being given."

The land referred to as having been granted to the merchants is in the occupation of the New Colaba Company and several other merchants, being held by them under a lease, dated 11th March 1837.

In 1837, Government appointed a Committee to inquire into and to report on the Company's landed rights on the Islands of Bombay and Colaba. With reference to the lands on the Island of Colaba, the Committee state in their report of 28th April 1837 as follows:—

Rent Com-  
mittee of  
1837.

"The right of altering the 3, 6 and 11 reas rate for building ground would seem to be fully implied from the single fact of such diversity of rates originating in the supposed more or less favourable locality of the ground subject to them, at the period when they were fixed—the latter, which however we would not recommend being altered, having been in fact fixed at that rate within the cantonment limits in the year 1822, because, as stated in the report of the Committee which suggested it, of the advantages derived by the occupants from there being always a regiment in the vicinity.

"As the difference therefore which led to these distinctions, if they still exist, will shortly be done away by the junction of the Islands of Bombay and Colaba by means of the vellard now in progress, we would accordingly propose, that all the 3-rea ground on the latter island, which Government have the power to alter and which by the way was actually fixed by the Committee we have adverted to at 11 reas the square yard, but reduced by the Collector in 1828 with respect to all but salters in consequence of the parties subject to it complaining that it was too high, as well as the 6-rea ground on the same island, be forthwith raised to that rate."

These recommendations of the Committee were approved by Government under Mr. Secretary Reid's letter, dated 15th December 1837. They were understood to have no reference to new grants of land and except where special causes for exception existed were generally acted upon.

Court's  
Orders, 1838.

The orders of the Court in reply to the reference from this Government in February 1837 were received in 1838. In their despatch of 9th May 1838 they observe:—

"There is no apparent likelihood that the land comprised in the grant will ever be required for any public purpose, and as the object to which it is now to be applied is one which combines much public advantage with the private benefit of the parties concerned, and the expenses and the risk are to be borne, not by the Government, but by individuals, we shall not refuse our sanction to the grant. You will take care to satisfy yourselves that the land is devoted to those objects in consideration of which the grant has been made.

"The objections which we assigned to dispossessing yourselves of the land on the Island of Colaba were the probability that it would acquire an increased value from

the erection of the causeway and the possibility that a large number of troops might be hereafter required in the island than at present. All instructions were intended to prevent future embarrassments and not of course from any desire that land which might be profitably employed should be allowed to lie useless. The latter objection is sufficiently provided against by the terms to which you propose to subject the grantees, under which Government can at any time resume possession of the land. The former might, we think, be obviated by applying to Colaba the plan which you have now adopted for the Island of Bombay, that of exposing the leases of all spots of vacant ground to sale by public auction. If, as observed by Mr. Farish, the expense of reclaiming land on Colaba is so great as to render the grant of no value, it will be competent to Government to grant it under the recommendation of the Collector (and after the test of a public auction) without requiring any purchase money.

“ We shall leave it to your discretion to act under these instructions. Whatever grants may be made must, however, be on the condition that the land shall be applied to some use and must not exceed in extent the actual wants of the grantee. Any increased value which the land may acquire by the erection of the causeway may fairly be claimed for the benefit of Government. Our object is to guard you against making grants to speculators who without any intention of expending any capital of their own may be desirous of holding lands for the purpose of subletting them hereafter and thus taking advantage at the expense of the public interest of an increase in value to which they will in no wise have contributed.”

Notwithstanding the orders of 1836 and 1838, many alienations took place between 1842 and 1844. Many of the monsoon tenants who were merely tenants-at-will were allowed to sell their land to other persons, and not only were

Further alienations, 1842-1844.

Framji  
Cawasji  
vs.  
Government,  
1843.

the transactions recognised by the Collector and registered in his Office, but even building certificates were granted to some of them on their being charged an increased ground rent of 6 pies per square yard. No sanction of Government was taken and their previous orders on the subject were ignored and totally disregarded. In one instance, a certain Framjee Cawasjee, who derived his title from a monsoon tenant and had erected a building on the land, filed a suit in consequence of the assessment on the land having being raised to six pies the square yard. The defence of the suit was sanctioned by Government. It was decided on the 10th May 1843 in favour of the Honourable Company, the Plaintiff being declared to have failed in establishing his right in limitation of the right of Government to assess his land.

Government  
vs.  
Hirabai, 1844.

In 1843, Government ordered that, if possible, every portion of ground alienated by the monsoon tenants should be immediately resumed and retained in the hands of Government. In October 1844 notices to quit were served on these tenants and in one instance a suit in ejectment was filed against Hirabai, widow of Byramjee Fakirjee. The result of this suit also was in favour of the Company. It had the effect of making the other parties accede to the terms which Government had offered, viz., leases for twenty-one years on payment of a valuation and a ground rent of six pies a square yard. A further clause was introduced in these cases limiting the height of the buildings. The valuation received by Government in these cases varied from Rs. 4 to Rs. 1-8-0 a square yard according to circumstances.

Attempt to  
establish a  
Military Cantonment,  
1844.

In 1844, the Chief Engineer, Military Works, made a survey of that part of the island which it was then considered desirable should be reserved for military purposes and suggested that the whole of it should be declared to be a military Cantonment. This attempt to establish and

define a military Cantonment proved abortive "as it was found impracticable to exclude the jurisdiction of the Supreme Court." A second attempt was made by the military officers in 1847 but the measure was not undertaken on the ground of expense.

Nothing of importance happened between the years 1847 and 1866. In 1866, the Government of Bombay, in a letter to the Government of India dated 20th June 1866, pointed out the desirability of purchasing out at once all the non-military occupants of Colaba and forming on the tongue of land a complete Cantonment for the whole of the Bombay garrison including the native regiment who were proposed to be moved from the lines at Bori Bunder and the Esplanade and for whom it was originally proposed to form a new Cantonment on ground to be reclaimed on the Byculla Flats. The details of the latter scheme, viz., the formation of a Cantonment on the Flats, having being carefully gone into, it was found to be most expensive and also in many ways objectionable on sanitary ground. A Committee consisting of Colonel DeLisle, Mr. Norman and Lieut.-Colonel Gell reported on the 10th May 1866 on the details of the course it would be desirable to follow in taking the land and the probable cost of carrying out the scheme. A further and a later report from the Collector brought to the notice of Government that the scarcity of money prevalent at the time among the native merchants who were mostly the owners of the land in Colaba rendered many of them anxious to part with their landed property at almost any sacrifice. Government saw the advantage of making the best of the opportunity and asked the Government of India to place at their disposal a sum of rupees fifteen lakhs for the purpose of purchasing the Colaba properties.

Acquisitions,  
1866-1870.



The Government of India in their letter No. 714-M, dated 23rd July 1866, observed that there seemed little doubt that on military and sanitary grounds the Colaba site was preferable to that on the Byculla Flats; that the Island of Colaba having been all connected with the bridges and reclamations really formed part of the *terra firma* of Bombay; that the troops, if concentrated in Colaba, would still be within two miles of the heart of Bombay and near enough to the Esplanade to make use of it for Brigade purpose; and they considered that Colaba, as concentrating all troops, British and Native, would form a safe military position and perhaps better than any other that could be chosen. The necessary sum of fifteen lakhs of rupees was placed at the disposal of the Government of Bombay and the work of the acquisition was commenced. In December 1866, Government published two notifications under Act VI of 1857 for the acquisition of properties consisting of over two hundred bungalows and houses and covering an area of about 163,400 square yards. The total cost of acquisition amounted to Rs. 20,6,000, and the work of acquisition continued till 1870. The properties so acquired consisted of leasehold, sanadi and tenancy-at-will properties.

On the 4th November 1868 the Quarter-Master-General, at the instance of the Commander-in-Chief, submitted to Government the desirability of making such portions of Colaba as had been given up for the troops, the military Cantonment, erecting pillars of demarcation and bringing all residents within it under Cantonment Rules. The Government replied that the Cantonment Act was not applicable to the City of Bombay, and Colaba being part of the City of Bombay, compliance with the Commander-in-Chief's recommendation seemed impracticable. In fact, therefore, there is no military Cantonment at Colaba in the proper sense of the word. It will be seen that the

## INTRODUCTION.

lxiii

rights of Government in Colaba had been seriously encroached upon in the past, but that that fact had been discovered long ago. The action taken in 1866-70 in acquiring the land required for military purposes under the Land Acquisition Act, followed by Laughton's survey, has settled things on a basis that prevents any risk of further encroachment on Government property.

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# CHAPTER III.

## THE MAZAGON ESTATE.

**Grant to Antonio Pessoa, 1547.** In 1547, Dom Joao de Castro, Portuguese Viceroy in India, originally granted the Mazagon Estate to Antonio Pessoa for an annual quit-rent of 195 pardaos in gold and three tangas of silver (i.e. about Rs. 74), Antonio having shown remarkable bravery at the siege of Calicut and Bassein, and having served with distinction as Feitor \* of Ceylon. † On his death in 1571, a royal patent ‡ dated at Goa, the 18th January 1572, was issued which granted the Estate in perpetuity to Lionel de Souza e Lima who had married Donna Anna, the daughter of Antonio Pessoa. This patent laid down that "the village of Mazagon is given to Lionel de Souza for ever and to his heirs, paying every year 195 gold pardaos and three silver tangas of six and a half double piece each. On the death of Lionel de Souza the village is to remain with Donna Anna Pessoa, Ruy de Souza and Manuel de Souza, his wife and sons, that is to say, one half of the income to the two sons". In the event of the sons dying before Donna Anna, the estate was to be shared by such of his descendants as Lionel de Souza might nominate by will. In any case, the village was not to be sold, exchanged or alienated, without the permission of the King of Portugal or the license of his Viceroy in India. Lionel de Souza died shortly after, leaving his widow to manage the manor. It descended from her to her eldest son Ruy de Souza in 1632. By 1637 Ruy de Souza had become incapacitated by age; and accordingly by another patent † dated the 3rd June 1637 the manor was

**Royal Patent 1572.**

**Patent of 1637.**

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\* It comes from the Latin "Factor" and means the Manager of a Factory.

† D. Cunha, p. 207; City Gazetteer, p. 39.

‡ Forrest II, pp. 359-365.

handed over to his son Bernadino de Tavora, in whose possession it remained until 1659. "It being declared" so runs the patent \* "that Ruy de Souza had no other son but Bernady de Tavora, the King confirmed the said Bernady de Tavora in the possession thereof provided he did not deprive the other heirs of the said Ruy de Souza of their rights, and provided he did not sell, change or give the said village in any shape or manner whatever without license, as it was to fall entirely under the management of one person only".

In 1660 the estate passed to Christovao de Souza de Tavora, who held it until 1671, when it became the property of Alvares Pires de Tavora, who was one of the signatories of Aungier's Agreement of 1672. †

Sale of the  
Estate

How long Alvares Pires held the estate cannot be definitely stated; but by 1727 the proprietress of the manor was Donna Senhora de Souza e Tavora, who lived at Bassein. From this date the fortunes of the estate commenced to decline. In 1726 the village of Varali was sold to Antonio de Silva, and in 1731 the Senhora handed over the remaining estate to her grandson Martinho de Silveira de Menezes and his wife Donna Marianna de Noronha, who at once instructed Visso Sinoy Telang, their attorney at Bombay, to sell the estate for 21,500 Xeraphins, which he did on 3rd August 1731, in the following portions, viz.  $\frac{1}{2}$  share to Antonio de Silva,  $\frac{1}{4}$  share to Antonio de Lima and  $\frac{1}{4}$  share to Shanker Sinoy. ‡

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\* A note to this patent laid down that Maneckji Naoroji hill, the oart Churney and Varali formed part of the Mazagon estate.

† Out of the 20,000 Xeraphins reserved under Aungier's Agreement Alvaro Pires paid a yearly quit-rent of Xs. 1304-2-29. (*Vide Materials III, p. 431*).

‡ Gazetteer II, p. 40.

In 1736, De Silva sold his half share to the other two, who executed two mortgage bonds to the Company, one dated 2nd June 1738 for Rs. 5,500 and the other dated 1st August 1738 for Rs. 2,800-2-0. But prior to these mortgage bonds the said proprietors of the estate had, in 1736, executed a mortgage bond in favour of Lalchand Bhavanidas and Amichand Gokuldas. In consequence of these earlier mortgage bonds and their applying to the Mayor's Court, these Mortgagees were empowered by the Court to enter into possession of the Mazagon estate. Lalchand Bhavanidas, being in debt to Mr. James Dalrymple and others, a suit in the Mayor's Court was brought against him by the latter who were put in possession of the Mazagon estate and were empowered to receive the rents and profits thereof. They accordingly let it to Mr. Richard Nowland and William Lane for Rs. 2,290 per annum for a term of 9 years commencing from 11th February 1749. Lalchand found means to settle his differences with Mr. Dalrymple and his partners, but the lease to Messrs. Lane and Nowland continued till the expiration of the term, only that Mr. Lane withdrew with the permission of the Court in 1751.\*

Government  
claim the  
Estate, 1758.

In January 1758, when the lease of the Mazagon estate was near expiring, Government directed that a claim thereto should be made on the ground that besides having a considerable mortgage on the estate they were the Lords Proprietors in consequence of the island having been made over to them by the King of Portugal and that the first proprietor had no right or authority to sell or alienate the estate. †

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\* Gazetteer II, p. 40.

† Materials III, pp. 435-6.

A claim was accordingly made in the Mayor's Court. The Company claimed to be the just and legal proprietors of the Mazagon Estate by virtue of the original Patent, copies of which were obtained from the Court of the Recorder at Goa. They further claimed to be put in possession of the Mazagon Estate and desired that Lalchand Bhowanidas, the prior mortgagee, should be called on to give an account of the estate since the date he came into possession of it, and to refund the amount which he had received from the Estate in excess of what he had a claim to.

The Mayor's Court gave the following judgment :—

"Read a petition from the Honourable the President and Governor and Council in behalf of their Honourable Employers, the United Company of Merchants of England trading to the East Indies, praying to this Honourable Court to put them in possession of Mazagon Estate and they appearing to this Honourable Court in their petition to be the prior mortgagees and no other demand appearing on the said estate, the Court have thought proper to permit the said Governor and Council, Constituents for the Honourable Company, to take possession thereof and the Registrar is ordered to give public notice to all persons who may have any demand on the said estate to lay in their several claims by next Court day and likewise write to Mr. Nowland to render to this Honourable Court particular accounts of all sums he has paid to Lalchand's widow since renting the said estate and to order her to send her account current with this said estate since her first taking possession thereof, and to summon Antonio de Lima and Sanra Sinoy to appear before the Honourable Court next Court day." \*

Judgment of  
the Mayor's  
Court.

A precept to the Sheriff to put the Company in possession of the estate was issued on 10th February 1758.

Company put  
in possession  
of the Maza-  
gon Estate.

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\* Rev. Dept. Diary No. 22 for 1798, pp. 1875-76.

The Collector was directed to take charge of it in the name of the Honourable Company from Mr. Richard Nowland. He was also asked to be prepared for the auction of the estate for letting it to farm in small parcels. On 2nd May 1758, the Collector informed Government that it would be more for the Honourable Company's interest to farm the whole to one person, and stated that Antonio de Lima and Pandoo Sinoy, who called themselves the proprietors of the estate, refused to deliver into his charge such part of the estate as was reserved for the support of a Church built on the estate. He recommended a grant of 15 mudhas of batty every year to Antonio de Lima and Pandoo Sinoy each to support themselves and their families as such a reservation was allowed by the Mayor's Court during the previous lease to Messrs. Nowland and Lane. On the Collector's recommendation, the Board resolved to let out in one lot for 5 years the whole of the Mazagon Estate, except that part which they had agreed to lease to Mr. Samuel Hough for a term of 99 years, and directed the Collector to apply to the Mayor's Court for being put into possession of that part of the estate which was withheld as being reserved for the Church, and rent it out with the rest of the estate.

The Estate  
farmed.

On the 11th May 1758, the whole of the estate (excluding that part \* which was leased to Samuel Hough, the Mark House and the Pomkenny House) as well as the Church batty grounds (the Mayor's Court having since put the Collector in possession of them), were put up to auction for 9 years and again rented by Mr. Richard Nowland for Rs. 2,200 a year. The cart of Churney, which formed an appendage of the Mazagon Estate, was separately let to Manekji Limji and two others for Rs. 640 a year.

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\* Known as the Mount Estate.

This procedure of letting out the Mazagon Estate in one lot was disapproved by the Court of Directors in England, who, in their despatch of 25th April 1760, observed: "The leasing of Mazagon in one lot we judge contrary to our interest. Experience should have convinced you of this, as the farming out of our oarts in small lots in 1752 produced us a duplicate profit. We therefore direct that in future you attend to this, and branch into small parcels whatever will admit of it, for a large purchase will always bring on a combination. We also forbid the sale of our property by valuation. Let everything belonging to us be always sold to the best bidder at public outcry and after a proper notification." \*

On the expiration of the term of 9 years of Mr. Nowland's lease in 1767, the Mazagon Estate was divided into six lots, viz., Bhandarwady, Collewady-Soorji, Nowghar including Ghorapdeo, Mazagon Collewady, Mattarwady including Bycula, and the detached oart Churney, and with the exception of certain parts resumed for public purposes and some granted by Government on leases for 99 years, was separately let for a term of 14 years from 12th May 1767 as follows † :—

1st Lot—Nowghar to Framji Hirji Mody	
for .. .. .	Rs. 845
2nd „ Mattarwady to Dadabhoy	
Manekji, Dhunji Punji and	
Rustom James for .. ..	„ 410
3rd „ Collewady-Soorji to Raghushet	
Goldsmith for ... ..	„ 340
4th „ Bhandarwady to Manekji	
Limji and Bhimji Ramshet for ..	500

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\* Materials III, p. 442.

† Constable's report, App. F. dated 29th October 1798. Vide Rev. Dep. Diary No. 22 of 1798, pp. 1899-1947.



5th Lot—Mazagon Collewady to Raghushet	
Goldsmith for    —    —    — Rs.	640
6th    „    Churney to Mangaji Vassaji for    „	715

These farms expired in the year 1781, and were re-let for a further term of 14 years, on the 4th May 1781, with the exception of some additional portions leased for a long term. The farms were let\* as follows:—

1st Lot—Nowghar to Mr. A. Nesbit for Rs.	1,200
2nd „    Mattarwady to    do.    „	900
3rd „    Collewady-Soorji to    Rustomji	
Manekji for    ..    ..    .. „	990
4th „    Bhandarwady to    Rustomji	
Manekji for    ..    ..    .. „	805
6th „    Churney to Mahiman Hussein	
Carooji for    ..    ..    .. „	307

The 5th Lot of Mazagon Collewady was leased for a long term to Mr. Watson's Executors for Rs. 580, qrs. 3, reas 76, but in 1793 the farm was resumed on account of a default and re-let to Dorabji Rustomji Patel from 1st August 1793, for two years and 9 months, for Rs. 981.

A question having arisen between Government and Mr. Nesbit, the farmer of Nowghar and Mattarwady, concerning the use of the Byculla plain, which was required for artillery practice, Mr. Nesbit relinquished both the farms in September of the same year. The causes which led to the relinquishment of the other two farms of Collewady-Soorji and Bhandarwady are not

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\* Constable's report, App. F, dated 29th October 1798. Vide Rev. Dep. Diary No. 22 of 1798, pp. 1899-1947.

# INTRODUCTION.

lxxi

known. The four farms thus relinquished were re-let\* for a term of 14 years, commencing from the 31st January 1782 :—

Nowghar to Ratanji Manekji for	—	Rs. 1,270 p. a.
Mattarwady to Framji Hirji Mody		
for .. .. .	..	310 ..
Collewady-Soorji to Morar Batha		
for — — — — —	..	640 ..
Bhan darwady to Burjorji Ratanji		
for .. .. .	..	580 ..

The lot Mattarwady was, however, resumed in 1788 from the farmer for his failure to pay rent, and after appropriation of a part of it for the powder works was let to Mr. Nesbit on a 21 years' renewable lease at the rent of Rs. 165-1-5 per annum.\*

The leases granted in 1782, having expired in 1796, were renewed\* in that year for a further term of 14 years as follows :—

Lot Nowghar to Sorabji Muncherji		
for .. .. .	..	Rs. 1,460 p. a.
„ Collewady-Soorji to Raghunath		
Dadaji for .. .. .	..	800 ..
„ Bhandarwady to Wasudev		
Mucundji for .. .. .	..	935 ..
„ Mazagon Collewady to Cawasji		
Ruttonji for .. .. .	..	825 ..
„ Churney to Framji Manokji		
Wadia for .. .. .	..	508 ..

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\*App. F to Constable's report dated 29th Oct. 1798. Rev. Dep. Diary No. 22 for 1798, pp. 1899-1947.

Disputes be-  
tween the far-  
mers and the  
Currumbees.

It appears that the purchasers at the auction sales on this occasion found that the farming rights which they had purchased were valueless on account of a new class of tenants, who had taken the place of the old Currumbees, refusing to pay more than the fixed rent agreed upon with the former farmers. The old Currumbees were the descendants of the Portuguese Abunhados, an indigent race of husbandmen who were annexed to the soil by the Portuguese landlords with a base tenure of the "Emphy tintee" \* kind which had by sufferance grown into a sort of customary freehold but purely at the will of the lords who suffered their "varges" or batty fields to be transmitted by descent in their families but would not permit their being sold or transferred. These Currumbees were protected from unreasonable and oppressive exactions by the farmers by a variety of covenants made expressly for their security. In the lease to Mr. Richard Nowland in 1758, one principal stipulation was that he should not force the Currumbees to cultivate more of the batty ground than they had done nor to pay him more than the fixed toka on what they cultivated. This stipulation was transcribed in the leases of the succeeding farms of 1767, 1782 and 1796, although at the time of the last lease there were no longer any of the old Currumbees to be found on the Estate. These were from time to time replaced by tenants of various description and were gratified by small compensations made to them either by the farmers or by the incoming tenants. †

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\* This is probably the corruption of the Portuguese word 'Emphyteusis' which means a grant or a lease either perpetual, or for a long term of years, on condition that the grantee or lessee of the lands should cultivate, plant or otherwise improve them. [Vide Naoroji Beramji vs. Rogers, 1867, Bom. H. C. Rep. IV, p. 1.]

† Constable's report, dated 29th October 1798. Rev. Dep. Diary No. 22 of 1798, pp. 1899-1947.

The farmers not only admitted these new-comers as tenants in place of the old Currumbees but resigned to them the benefit reserved to them (farmers) in one of the articles of the leases, which was :—That at the expiration of the contract the said farmer shall deliver up the said farm in the like good order and condition in which he receives it or make good the difference, the Company previously making good to the farmers half the real value of all improvements to be estimated by the Vereadores or Mattaras or other proper persons appointed for that purpose.\*

This was construed by the farmers to entitle them or their assigns at the expiration of their farm to have a compensation paid them by the Company in money, equivalent to half the value of all improvements made during their term not only in point of culture and plantation but likewise of buildings, fences, &c. This claim on the Company the farmers assigned to the new tenants who for the most part were the authors of what were considered to be the improvements to be paid for and who were the only occupants of the whole of the land except the parcels granted therefrom on a more permanent tenure. The new farmers considered themselves in no wise bound by the agreements between their tenants and the old farmers, because the latter could grant no tenure to bind the Company beyond the term of their own contract. But the new tenants insisted that for this very reason they were not bound to render to the new farmers any more than the ancient toka fixed on the grounds they occupied and that Government could not grant to a new farmer any profit or benefit from their improvements until the Company had made good the stipulated compensation.\*

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\* Constable's Report, dated 29th Oct. 1798. Rev. Dep. Diary No. 22 of 1798, pp. 1899-1947.

In consequence of these circumstances the Company was deprived of the rents of the farms of Bhandarwady and Collewady-Soorji for nearly two years and a half from January 1796, the new farmers refusing to pay their rents on the plea that they were not put in possession of all the land lying within the compass of the Estate, with everything standing or growing on them.

Suits in the  
Revenue  
Adalat.

The Collector consulted the Company's Solicitor as to the best way of recovering arrears of rents from Wasudeo Mukundji and Raghunath Dadaji, the farmers of Bhandarwady and Collewady-Soorji. The Company's Solicitor replied that the best way of recovering the arrears of rents was by a suit in the Revenue Judicature. Mr. Constable was asked to file a suit in the Revenue Adalat against Wasudeo Mukundji for arrears of rent which amounted to Rs. 3,740. The action was on the covenant for the payment of the rent; the defendant pleaded that he owed nothing because he had not the possession of the Estate given to him; the contention of Government being that he either neglected to enter or wilfully suffered the possession to remain vacant when due means were given him to enter. It was further urged that all tenants on this farm were present at the auction and that the farmer had actually demanded rent from them who offered to pay him the usual rents. He wanted to assess the tenants at unusual and exorbitant rates and because they disputed his right to do so he represented to the Collector that he was not put in possession of the Estate.

The suit was decided in favour of Wasudeo Mukundji, the Court having considered as proved that he had not obtained the benefit to which he was entitled. From this decision Government appealed to the Sadar Adalat Court. Under these circumstances and while the appeal to the Sadar Adalat Court was pending Wasudeo

## INTRODUCTION.

lxxv

Mukundji offered, in a letter addressed to the Collector on 15th June 1801, to relinquish his farm and asked to be released from his engagement.

With regard to the other farm of Collewady-Soorji, the Collector called upon the farmer Raghunath Dadaji to pay arrears of rent or in case of non-payment, to know if he also wished to relinquish his farm. Raghunath Dadaji replied that he accepted the latter and offered his resignation. The Collector recommended the acceptance of the relinquishment of the two farms, and in so doing stated that he could, with very little trouble, collect the rents from the under-tenants. The resignations of both the farmers of Collewady-Soorji and Bhandarwady were accepted by Government. The Company's Solicitor was asked to withdraw the pending appeal in respect of the arrears of rent from Wasudeo Mukundji. The Collector was then asked to report to the Governor-in-Council as soon as possible what amounts he would collect from their under-tenants for arrears of rent as due for several years back, and what terms he would be likely to obtain from them for being suffered to retain their respective occupancies.

Relinquish  
ment of the  
Bhandarwady  
and Collewady  
Soorji Farms.

This report does not appear to have been submitted by the Collector but it appears that the management of these farms (Bhandarwady and Collewady-Soorji) was since 1801 in the hands of the Collector and the lands were held of Government "on sufferance" since that year.\*

While the Company were farming the Mazagon Estate in lots, their title to the whole was disputed by Ganpat Pandu Sinoy and the co-heirs of Shankar Sinoy, formerly the owner of a moiety of the Mazagon Estate. In 1793, they applied to the Mayor's Court for a restitution of the Estate which had been taken from them by the Company under a plea of forfeiture.

Government's  
title to the  
Estate dis-  
puted.

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\*Dickinson's Rep., dated 30th September 1824, para. 10.

Judgment of  
the Mayors'  
Court, 1797.

The suit was decided in favour of the plaintiffs on 5th December 1787 and the following decree was passed:— "It is hereby ordered and decreed that the plaintiffs in this cause shall be put in possession of the Mazagon village with premises and appurtenances thereunto belonging, upon paying the defendants, principal sum of Rs. 46,326-1-8, being the amount of the mortgage claim due to them by Shankar Sinoy Suktankar and Antonio D'Lima on the 13th February 1758, the time when the Sheriff put the said defendants into possession of the said village and appurtenances by virtue of a precept from this Court."

Appeal  
against the  
Judgment.

Against this decision of the Mayor's Court the Company preferred an appeal to the President and Council of Bombay, then forming the Court of Appeal from the Mayor's Court. The Recorder's Court having by this time taken the place of the Mayor's Court as well as that of the Court of Appeal, the appeal of the Company was heard before the Recorder in the year 1799.

Recourse to  
Arbitration,  
1799.

Before the matter had, however, come to a final decision the claimants offered to have recourse to arbitration. This offer being accepted by the Company, Sir William Syer with Messrs. Atkin and Halliday was appointed arbitrator.

Award of the  
Arbitrators,  
1802.

Sir William Syer died before the award was made. The award was published by the other two arbitrators on the 24th December 1802, the main clauses being (1) the Company to pay Rs. 50,000 in treasury notes bearing interest at the rate of 9 per cent. and Rs. 15,000 in cash to the claimants, (2) the Company to pay Rs. 8,000 for costs of the suit, (3) the Company to convey to the claimants the ground known as the Pomkerney house, and (4) each party to pass a release to the other. The Company's Solicitor was instructed to prepare the general release

and the deed of Conveyance, which were duly approved and executed. The Company having thus acquired a complete and indefeasible title to the Mazagon Estate, Government ordered a survey to be made and appointed Lieut. Goodfellow to carry it out. Whether this survey was undertaken at all is not known. It was not till 1824 that we have an authentic Survey of Mazagon. This survey of 1824 was undertaken and finished by Captain Dickinson. On the 20th July 1804, the Board again called upon the Collector to report what the occupying tenants would consent to pay, and what measures he had pursued in accordance with the Resolution of Government on the occasion of allowing the farmers to give up their leases and directed him in the meantime to collect the full revenue of the allotments of ground in these farms.

On the 26th idem, the Collector reported that there was due by the farmers five years' rent amounting to Rs. 8,675 out of which he had recovered the greater part from the local occupants, amounting to Rs. 5,861-3-90, thus leaving a balance of Rs. 2,813-0-10 which he considered as irrecoverable, and deemed it unnecessary to take any further steps towards the realization of the outstanding balance. The Collector, however, does not seem to have ever reported as to "what terms he was likely to obtain from the tenants for being suffered to retain their respective occupancies."

On the 2nd April 1810, the Collector wrote to Government that the lease of the Noughar farm would expire on the 2nd June following and asked for orders whether it was to be re-let or whether it should be resumed and retained into the hands of Government. The lot Churney had already been resumed by Government for the extension of the Esplanade.

Noughar and  
Mazagon  
Collewady  
farms.



In a further communication, dated 14th April 1810, the Collector reported as follows :—"One \* of the farms is situated at Mazagon, as its name implies, and the other called Noughar is adjacent. The sources of revenue consist in toka batty, brab and date trees and groundnut and were in Mr. Simpson's time, let out to the present lessees for a period of 14 years now about to expire. Mazagon, at the annual rent of Rs. 1,450 payable by two instalments, Noughar, at Rs. 825 payable by two instalments also. The last mentioned farm is said to have been for some time past a losing concern to the farmer, but on the other hand some advantage has accrued to the farmer of Mazagon.

"The Honourable the Court of Directors seem to be generally averse to the farming system and I am not aware of any advantage likely to result by the farms being re-let, excepting that of Noughar which from its natural unproductiveness and the annual rent at present received being far more than what I think Government would themselves make if it were to be taken into their hands.

"Consequently should it not therefore be considered as militating against the instructions of the Honourable Court, I would most respectfully suggest the expediency of its being put up to public outcry, a mode that would at once ascertain its real value and enable Government to decide as to the necessity of adopting the measures. But if this plan be not approved of by the Honourable the Governor-in-Council, I must beg to request his authority for calling upon the present lessees for a copy of their khist-bundies † to guide me in making the collections in the ensuing official year."

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\*Mazagon Collewady.

† Settlement of the instalments of the revenue both as to time and amounts; any document relating to fixed periodical payments. (Wilson's Glossary.)

In reply to this the Collector was instructed on the 24th April 1810 to resume the farms and keep them in his hands for one year as an experimental measure. He was at the same time desired to cause attention to be paid to their better management and to report from time to time what might in consequence occur to him.

The farming system was disapproved by the Court of Directors who, in their despatch of the 10th January 1810, expressed the following sentiments :—

“The farmers of the revenue have an interest distinct from that of the Sovereign and at variance with that of the subject; distress of the contributors can never move them to a relaxation of their demands and for the character of the Government, they probably neither feel nor care. The consequence of this system generally is that to raise a moderate sum which finds its way to the Treasury, the public are subjected to enormous contributions. In the administration of a new settlement the system of farming the revenue we conceive to be particularly impolitic. It keeps the Government and the subject at a distance, and establishes a medium of communication between them, degrading to the one and oppressive to the other. The former thus dispossessed of its power to dispense with numberless little acts of grace and liberality which cost little and are worth a great deal, and the latter in paying the imposts levied upon him has not the consolation of thinking that what he takes from his private will go into the public purse, and that the community gains in a just proportion to his individual sacrifices.”

In consequence of these orders these farms of Maza-gaon Collewady and Noughar (which had, since its formation as a separate lot in 1767, much dwindled in size, a great portion of the land having being retained by

Government in connection with the Powder Works and the "Pomkerney House", forming a part thereof, having been transferred to the heirs of Shanker Sinoy) which had already been built over with a number of houses were taxed at the rate of 11-reas \* per square yard. In August 1811 the Collector reported: "As a mode of conforming to the wishes of Government without distressing the inhabitants of the estate, it was deemed advisable by the late Collector to levy a tax of 11 reas the square yard of land. The system of taxation was founded upon a much more equitable principle than what had been heretofore practised in as far as it caused ground of similar value to pay a similar rent," and asked for confirmation of the Honourable the Governor in Council. This was obtained in Government letter, dated 20th August 1811.

**Ghorupdeo  
lands.**

It appears that the Ghorupdeo lands although forming part of the Noughar farm were not included in the above arrangement either on account of their distance from the main lot or on account of their being lands under cultivation. They continued to pay assessment at varying, but low, rates, and held by their respective holders "on sufferance" since the year 1810.

Of the original estate, as we have seen, Warli, which has always remained as a separate seignory, was sold to Antonio De Silva in 1726, the Mount was leased to Samuel Hough in 1758, the Byculia Plain was resumed for the use of the Artillery practice in 1781, Matterwady (excluding the portions appropriated for the Powder Works) was leased to Nesbit in 1788, Churni was resumed for the extension of the Esplanade in 1804, and Noughar and Mazagaon Collewady were

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\* This rate of 11 reas being the same as was levied on the "quit and ground-rent" lands in the other parts of the Island, these lands have come to be looked upon as held under that tenure although there is no authority for considering them as such.

taxed at the building rate of 11 reas a square yard in 1810. Bhandarwady and Collewady-Soorji (with the exception of small portions let on long leases) as well as Ghorupdeo (with the exception of the hill itself which was leased to Dhakjee Dadajee in 1822) remained in the hands of the Collector, the tenants holding only "on sufferance."

Although we are ignorant of the actual terms which the Collector was able to obtain from the tenants, we can get some idea of the manner in which the assessment on these lands was fixed from a letter from Collector Williamson, dated 1st August 1811, addressed to Government in connection with the Noughar and Mazagaon Collewady lands, in which he observes :—"This system of taxation \* was, in my opinion, founded upon a much more equitable principle than that which had been heretofore practised in as far as it caused ground of similar value to pay similar rent; whereas, according to the old system, one, for instance, would pay perhaps double the rent that his neighbours paid upon land of exactly equal value. For the rent was not levied according to measurement but paid so much for the plot; and though at its first adoption it probably was a fair mode of taxation as no doubt the rent was assessed according to the value of each spot of ground at that time."

This is further exemplified by the following extract from Dickinson's report,† dated 30th September 1824 :—"As these lands were originally batty fields, to which parcels of bhat ‡ or grass ground of unequal extent were attached, a rent equivalent to the ancient toka and in some cases to what it progressively attained from the substitution of vegetable culture during the farming

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\* 11 reas per square yard. † Para 75. ‡ Waste land.

system, is all with which they have since that period continued chargeable; hence also the reason why no two portions of corresponding extent pay alike." In lieu of this unequal assessment and for checking a practice as unauthorised as it was productive of confusion in the revenue accounts Dickinson suggested the establishment of one uniform rate of ground rent of 2 reas per square yard for this species of lands, or in case Government were pleased to grant renewable leases for twenty-one years in perpetuity, a rate of 3 reas per square yard per annum. Although the management of these lands was with the Collector the collection of rent was for many years in the hands of one Cawasjee Ruttonjee Patell—an unprecedented practice—and was resumed by the Collector in June 1828.

Lands in  
Bhandarwady  
and Collewady  
Soorji held  
on sufferance.

The lands in Bhandarwady and Collewady-Soorji and the nature of the tenure on which they were held did not attract the attention of the Government or their Officers for a very long time. In 1864 the Collector Mr. Scott introduced the system of writing the words "on sufferance" on the Land Revenue bills. This was vigorously protested against by a few holders who disputed the right of Government to describe the tenure of their lands in this way. Most of the holders paid the dues "under protest," while Sir Jamshetjee Jeejeebhoy made a representation to Government against the action of the Collector. Mr. Norman who was the Collector, after briefly stating the circumstances under which the words "on sufferance" came to be inserted in the ground rent bills stated as follows:—"It does not appear that the occupants of such lands ever admitted that they are mere tenants-at-will, but on the contrary have always considered themselves the actual owners of the land subject to the payment of a small annual ground rent. The

## INTRODUCTION.

lxxxiii

use in fact of the words "on sufferance " having been inserted in the bills in no way affects the question, and the rights of Government with regard to this land will never be decided until the matter goes into Court."

In 1903 Government passed orders to the Collector to issue notices of the intention of Government to increase the assessment on these lands to the holders thereof, but at the same time inviting representations from the holders if they wished to make any before the assessment was finally fixed. These notices were issued by the Collector on the 6th July 1903. The increase in assessment was proposed to be brought into force from 1st September 1903, and was proposed to be guaranteed for 50 years from that date.

The several representations which were made indicated that the holders had no evidence of title beyond what appeared on the records of Government and since there was nothing in the nature of the tenure to restrict the power of Government to re-assess the lands, Government passed their final orders on the 8th of April 1904. Under these orders the holders were offered 99 years' renewable leases on the following terms:—(1) The value of the land was to be ascertained by two Assessors—one nominated by the Government and the other by the holder—with the Collector of Bombay as Referee ; in case of disagreement the Collector's decision to be final. (2) The assessment to be calculated at 4 per cent. on the value of the land covered by buildings and at one-fifth of one per cent. on the value of the land not so covered; the measurements to be made by the Collector of Bombay. (3) The rate of assessment so arrived at to be fixed for 99 years. (4) During the first ten years only  $\frac{1}{4}$  of the assessment on the land covered by buildings to be levied, for the next ten years only  $\frac{1}{2}$ , for the third ten years only  $\frac{3}{4}$

Leases offered  
to the holders,

and for the remainder of the term the full assessment; the assessment on the land not covered by buildings, to be levied for the whole term. (5) On the conversion of the land assessed at the lower rate to land covered by buildings, the assessment on the land converted, to be raised and fixed according to the higher rate with the same deductions as are made under the preceding clause for the time being; the holder to give notice to the Collector before commencing any building. (6) The lease to be renewable in perpetuity subject to such alterations of assessment as Government may direct at each renewal.

In the case of properties devoted to charitable purposes, the benefit of the lower rate of assessment, viz., one-fifth of one per cent. on the value of the land in the holding, whether covered with buildings or not, was conceded by Government.

and accepted  
by them.

A few of the holders immediately accepted the offers but some of them resisted the action of Government and filed suits in the High Court and in the Revenue Judge's Court but ultimately accepted leases on the same but slightly modified terms. The lands in Bhandarwadi and Collewady-Soorji held for a long time "on sufferance" have all been converted into leasehold.

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## INTRODUCTION.

lxxxv

### CHAPTER IV.

#### THE EXISTING TENURES.

The following are the existing tenures in Bombay, viz.: (1) Pension and Tax, (2) Quit and Ground Rent, (3) Toka, (4) Foras, (5) Inami, (6) Leasehold, (7) Sanadi, (8) Newly Assessed and (9) Tenancy-at-will.

The term 'Pension' takes its origin from the Portuguese word 'Penção,' which means a bonus or premium paid for the fee-simple on the compromise of a doubtful tenure.\* The payment of 'Pension' dates from Aungier's Agreement of 1672, which commuted, in consideration of the payment every year of 20,000 Xeraphins † (Rs. 13,850), whatever rights the Company possessed over the estates which were in a state of cultivation and which were in consequence acknowledged by that instrument to be freehold property.

(1) Pension  
and Tax.

The 'Tax' of 10 per cent. on the produce of all "landed estates" was introduced in the year 1758 to meet "the prodigious expenses" of fortifications and works for the security of the inhabitants.

There is no fixed rate per square yard on these lands; the rents are arbitrary "lump sums" bearing no uniform proportion to the quantity or value of the land and in

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\* Warden, par. 184.

† The sum of 20,000 Xeraphins was determined from an account taken at the time of the true value of the annual produce of all the lands, which was reckoned to be about 80,000 Xeraphins, of which it was agreed that one-fourth should be annually paid to the Company. The amount was distributed as follows:—

Pension in the District of Mahim, Xs..	..	10,160-1-37
Pension in the District of Bombay, Xs.	..	9,839-1-43
		<hr/> 20,000-0-0



many cases give rates as low as a fraction of a pie per square yard. An explanation of the very low rates and the irregularity in the scale is to be found in the fact that the 'pension' was originally levied on garden or rice land and the 'tax' was levied on the produce calculated at so much per wheel used for irrigation.

Some lands under this tenure pay only Pension, some only Tax. It is difficult at this distance of time to assign a reason for such a distinction. Every square yard of ground in the occupation of individuals in 1672 should have been charged 'pension'. Possibly an exception was made in the case of lands whose profits were applied to charitable purposes, and those lands which were charitable in 1672 and ceased to be so in 1758 were only 'taxed' in that year. Some exemptions may also be due to omissions on the part of the Collector's office. Those lands which continued to be charitable have been and are to-day exempt either from Pension or Tax.

The cess on these lands is not subject to revision and is redeemable on payment of the amount of 30 years' rent. The redemption was at first fixed at 25 years' purchase by a resolution of the Government of India of 1873, but altered to 30 years' purchase by another resolution of the Government of India, dated 24th August 1898.

Land held under this tenure is found in the Fort, Girgaum, Malabar Hill, Cumballa Hill and in the Mahim Woods.

The area as recorded in Col. Laughton's survey is 2,551 acres.

## INTRODUCTION.

lxxxvii

Closely associated with the Pension and Tax tenure (1A) F is a kind of sub-tenure known as "Fazindari".\* It is a dari. sub-tenure between a private proprietor and his tenant. It is not known how and when it originated, but it is unquestionably of long standing. The owner of the land under Government is known as the Fazindar. Land under this tenure was let for building purposes, without, in most cases, any formal agreement, and subject to a low annual ground rent. The earliest record of this tenure found in the Collector's office is a report by the Vereadors of the 14th December 1782. It runs as follows :—

" The rule and custom practised at the island are  
(a) That the owners of the oarts cannot break or remove any house in their oart unless the owner of the house has given just cause to or any ways causing damage to the oart or its owner. (b) That no owners or possessors of the houses can sell their houses to any strange purchaser without a special permission of the oart's owner, and should he, the owner, choose to buy the house, he is to have preference at a moderate rate according to the time and value or at an intrinsic valuation at the time. (c) That no persons living in another person's oart can on any account let out their houses to any improper or indecent people any ways detrimental or scandalous to the owner of the oart or the neighbourhood and on their, the owners of the house, acting so, the owner of the oart may thereby order the house to be removed, but the house must not exceed the value of Rs. 500. (d) That no persons in another person's oart can take any further ground for their houses' use or open any new passages without the owner's

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\* Derived from the Portuguese word 'Fazenda,' which means an estate.

permission previously obtained nor can they pretend, should there be bamboo or mud-walled houses, to make them of chunam and stone or to re-build them with timbers without the owner's permission. (e) When any person builds a house in another person's oart they make no other agreement with the owner, but that of paying annually the usual ground rent thereof or as they may have settled betwixt them, and to live quiet and peaceably without giving the least trouble, detriment or any scandal to the owner of the oart or neighbourhood or causing any .... trouble .... damage to the owner "

But long prescription appears to have changed the nature of this tenure altogether. It was a popular idea with some of the old native proprietors that the Fazindar, although he could on no account evict his tenant while his building was standing had a reversionary right to his land as soon as it was either pulled down or destroyed by fire or other natural causes, the decision of Perry C. J. in *Dorabji vs. Bishop of Bombay* \* (1848) followed in *Yeshodabai and Gopikabai vs. Ramchandra Tukaram* † places it beyond doubt that the Fazindar of to-day has no interest in the land beyond the annual rent, and this has been recognized in numerous compensation cases under the Land Acquisition Act in which the invariable practice has been to award the Fazindar no more than the capitalized value of the rent.

(2) Quit and  
Ground Rent.

'Quit rent,' as its name implies, means freedom from military service. It was established in 1718 and was a money substitute in lieu of the military service reserved by Aungier's Convention.

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\* Perry's Oriental Cases, † I. L. R. XVIII Bom. 66.

The quit rent was imposed on all the inhabitants residing within the Town walls in order "to reimburse the Right Honourable Company some part of the great expense and charge they had been in fortifying and securing the said town."

The original quit rent does not appear to have been fixed on any uniform system. It was at first imposed on every description of property (pension lands not excepted) within the Town walls, but was afterwards extended to properties beyond the walls.

By an order of 3rd December 1731, the English inhabitants were directed "to pay the same quit rent for their houses that they had hitherto been assessed in, but for such ground as they might have taken in since the building of their houses, or may hereafter take in they shall pay an additional quit rent of 6 reas for each square yard but free of ground rent, and all natives or black inhabitants to pay for the ground they occupy or should hereafter occupy a quit rent of 6 reas and a ground rent of 5 reas for each square yard." This distinction as well as the fact that the quit rent was imposed on even "pension" lands accounts for the fact that some of the properties in the Fort pay quit rent only and others quit and ground rent, while some pay pension as well as quit and ground rent. The properties in the Town pay quit and ground rent of 11 reas per square yard.

The power of Government to raise the rents on these lands seems to have always been a vexed question. Although, as advised by Mr. Warden,\* Government never made any declaration so as to vest these lands in perpetuity in the possessors, they have never attempted

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\* Vide p. xxv, *supra*.

either to resume them or to raise the assessment thereon until the present moment, notwithstanding the suggestions to the contrary made by Government officials from time to time. There has been no judicial decision as to whether there is a specific limit to the enhancement of assessment on these lands.

Like Pension and Tax lands, the cess on these lands, if less than Rs. 10 per annum, can be redeemed on payment of 30 years' rent.

Quit and ground rent lands are situated in the Fort, Old and New Towns and in parts of Colaba and Mazagon. Their area as shown in Laughton's survey is 973 acres.

(3) Toka. Toka lands derive their name from the word "toka" which means a share of the produce, the assessment on these lands having been formerly paid in kind.\* They were also known as "Sweet Batty" grounds, and comprized the greater part of the villages of Parel, Bomnolly, Naigao, Wadalla, Matoonga, Sion and Dharavy.

The right of the proprietorship of Government to these lands is founded on the fact that all uncultivated and waste lands, excepting such as by the constitution of the Island, were an appendage of the cultivated portion as pasturage ground were, at the date of Aungier's Convention, Crown lands which, as time went on, were let out for cultivation.

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\* The lands were by long usage assessed at a rent in kind which, after the harvest, was paid by every Currumbée according to his proportion, usually one-half. But during the prevalence of the farming system it seems that the payment in kind was changed to a payment partly in money and partly in kind. And in the village of Parel, during the last lease, the payment in kind appears to have been wholly converted into a money payment.

Many confiscations after the Siddi war in 1677 as well as the forfeiture of the lands belonging to the Jesuits added largely to the Honourable Company's lands and were similarly let out by them to cultivators.

In 1751, the Honourable Company introduced the farming system and the villages which comprized the Toka or sweet batty lands were let out to farmers every 7 years by public auction on certain conditions, one of them being that the farmer should not collect from the Kunbis more than the usual toka.

This system of farming was, however, discontinued in the year 1800 \* in consequence of the constant disputes between the farmers and the Kunbis as well as on account of the alienations made by the latter from time to time.

The collection of the toka varied from year to year. The market price always fluctuated. It varied from Rs. 23 to Rs. 45 per moora of batty. In years of scarcity it was usual to grant an abatement. From 1837-8 the rate of commutation remained fixed at Rs. 20 per morra of batty without any reference to the market price. No sanction of Government was annually applied for as before, though the authority, if there was any, for such a departure is not forthcoming; but it seems probable that the opinion of the Rent Committee of 1837 who thought that the toka lands were subject to as heavy a tax as they could afford to pay without driving them out of cultivation brought about this change.

In 1876, i.e. four years after the Revenue Survey was finished, the Collector, Mr. Arbuthnot, suggested a reassessment of all toka and foras-toka lands on the basis of the new measurements. †

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\* Vide Chapter I, p. xv. † Vide chapter I, pp. xlii—xliii.

Mr Arbuthnot's scheme of assessment was sanctioned by Government on 14th August 1879. The revised rates of assessment were: one pie per square yard on lands at Parel, Naigao and Bamnolly; one-half pie at Matoonga; and one-third pie at Sion and Dharavy. These revised rates were guaranteed for a period of 50 years.

In consequence of Mr. Arbuthnot's revision several suits were filed by the owners of the lands. One of these (Shapurji Jiwanji vs. The Collector of Bombay)\* was decided by the High Court in favour of Government, thus establishing the right of Government to increase the assessment over these lands.

Toka lands are situated on the north-east of the Island from Sion to Sewri. They comprise a total area of 1,489 acres and 764 square yards.

The early history of these lands shows that the Kunbis or tenants who cultivated the lands could be removed at the pleasure of Government. So far back as 1742 we find a minute of the Governor in Council directing the Collector to acquaint the Kunbis of the Company's batty grounds that unless they engaged to deliver the whole of the established toka, the grounds would be rented to others. We find in 1789 the Collector writing as follows:—"By the custom of Bombay no cultivator can exchange with another Currumbes without the Company's Collector's consent that the Register may be altered; neither can he omit cultivating what he has once received to cultivate without being liable to be dispossessed and punished. And by the same custom, officers called Mattaras are appointed by the Collector to prevent fraud, alienation or destruction to the Company's lands which it is their absolute duty to prevent

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\* I. L. R. IX. Bom. 483.

and upon complaint the Collector has removed and punished the Currumbees." The notification of the 10th October 1789\* was in itself declaratory of the rights of Government in these lands. The Currumbees were described as being no other than stewards of the soil and mere tenants-at-will having only the right to the use and improvement of the lands which they were permitted to cultivate.

The earliest instance on record of the resumption of land of this description is of land belonging to the village of Parel and granted by the Government of 1783 to the Parsi ship-builder's family. After that date several portions of toka ground were taken up for the new road between Parel and Sion, the Kunbis never setting up a claim to undisturbed possession, but applying for an abatement of toka or the rent payable to Government. In 1816-17 when Government resumed several toka lands in the village of Wadalla for the Artillery cantonment they paid as compensation to the holders an amount equivalent to half the valuation of the trees which they and their ancestors had planted, "not as a matter of right but a favour from Government which had an undoubted right to resume its lands, whenever it might judge proper, without any consideration, to the occupants."

In 1820, Captain Dickinson wrote as follows:—"As this is the third time within the last few years Government has found it necessary to resort to the disagreeable measure of depriving the Currumbees of the ground, the unmolested occupation of which themselves and ancestors had so long enjoyed, without any other compensation being made to them, in conformity with what appears to have been an established practice, than half

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\* Vide chapter I, p. xvii.



the valuation of the trees standing upon the said ground, in consideration of the repeated losses these people have sustained and of the impossibility to meet their wishes by granting them other ground to cultivate in lieu thereof on the Island of Bombay, it may not be thought improper my availing myself of the present opportunity to suggest the seeming equitableness of an increased remuneration being made to parties who have so suffered, and as their importunity is limited to a respectful solicitation of what the Hon'ble Board in its liberality may think proper to bestow, it may be thought no more than fair that the difference between the half and the full valuation of their trees should be made good to them together with a bonus equivalent to ten years' half toka."

The Government, concurring with the Revenue Surveyor in his view as to the hardship of depriving the cultivators of grounds which they so long had occupied, approved (in Government letter dated 25th April 1820) of the suggestion that they should be allowed ten years' half toka and the full value of the trees and sanctioned the measure 'not as founded on any right of the Curumbees to such grant which cannot be admitted, but as a voluntary act of indulgence on the part of Government.' This indulgence on the part of Government was reported to the Court of Directors in England and was approved by them in their despatch of the 7th April 1824. We find in 1825 instances of ground taken up for a new road in the vicinity of Parel and compensation paid on the principle laid down in 1820.

The right of Government to resume these lands appears to have been forgotten later on, for neither Mr. Showell in 1860 nor Mr. Arbuthnot in 1876 made any mention of the power. It is somewhat surprising to

## INTRODUCTION.

lxlv

find Mr. Arbuthnot, while suggesting a reassessment, writing as follows :—“The scheme proposed by me is simply to place one uniform rate of assessment on all toka lands, leaving the owners to do what they liked with their land ; build on it, grow rice or other produce on it or turn it into quarries or use for grazing.”

The question of the interest of Government in these lands as against that of the toka land-holders has recently been one of considerable importance in view of the large acquisition of toka lands by the Improvement Trust within the limits of the Island. After a good deal of discussion the Government claim has been settled on a basis of the capitalized value of the existing amount plus the present value of the increased assessment after 1929, when the present guarantee will expire

The Foras-Toka lands although not forming a distinct tenure at the present time had in the earlier Toka. (3A)<sup>1</sup>Foras-days a separate significance. They consisted of land of very inferior quality which was allotted to the cultivators of toka batty lands as ground for pasturage. A very small rent denominated “foras” was levied on them. These lands were usually styled by the natives as “Tokache Foras,” that is, Foras grounds attached to Toka batty grounds.

There was no proper detailed survey of these lands, neither was there any measurement of them at all. It is suspected that a large quantity of this land has been included in the Foras lands under plan No. 2, referred to in subsequent pages, in 1851, and has thus been enfranchised as freehold under the Foras Act. The Foras-toka lands were, after Colonel Laughton's Survey of 1872, amalgamated by Mr. Arbuthnot, in 1876, with the Toka lands.

(4) *Foras*.

*Foras* or Salt Batty lands, are lands reclaimed from the sea. They derive their name from the Portuguese word "foro"\* which signifies outlying or waste lands or the rent reserved for such outlying or waste lands.† The old salt batty lands were recovered from the sea by means of the vellard between Sion and Mahim; the new salt batty lands, by means of the Hornby Vellard. These lands were originally let, free of rent, in 1703 for 35 years. In 1738 they were re-let, free of rent. In 1740 a low rent of 4 reas a burga was levied. In 1744 it was increased to 6, and in 1748 to 9 reas a burga. The right to alter the rent was often challenged by the holders.

In 1805 the question of the respective rights of the Company and the holders in these lands was put to a legal test before the Recorder, Sir James Mackintosh.‡ Though the verdict was in favour of the Company the right of the Company still remained an open question.

In 1813 Government published a notification declaring their intention to increase the rents in a nearer proportion to the value of the lands, fixing one-third of the produce of the lands as annual collection. The holders strongly protesting, the rents had to be left undisturbed and the notification became only a dead letter.§

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\* *Foro* is described as only a 'quit-rent' in a despatch from the President to the Court of Directors dated 10th January 1671. D'Cunha also gives the same meaning, vide his *Origin of Bombay*, page 228.

† IV Bombay High Court Reports, p. 40.

‡ Vide chapter I, page xx. § Vide chapter I, page xxv.

## INTRODUCTION.

lxlvii

In 1836 when the Grant Road was projected the lands on which it was constructed being "Foras", the question of the Government's right of resuming them was revived. Several years of discussion followed which ultimately ended in the passing of the Foras Act in 1851. Under this Act the rights of Government in all the foras lands excepting those which under the provisions of the same Act were vested in Government for the purpose of roads, tanks, and other public purposes, were extinguished in favour of the persons holding them as immediate rent-payers to the Company, saving the rents then severally payable in respect of such lands. The foras lands were thus enfranchised as freehold lands under this Act.

Foras lands are situated at Byculla, Parel, Worli, Mahim, Matoonga and Dharavi. Their area as given in Laughton's survey was 3,408 acres. Like Quit and Ground Rent lands the cess on these lands, if less than 10 Rupees a year, is redeemable on payment of 30 years' rent.

The lands in Bombay which fall under this tenure are comprised in the three grants made to the Lowjee (Wadia) family by Government in 1783, 1821 and 1885.

(5) Inami.

In 1783, Sir Edward Hughes, K. B., Commander-in-Chief of His Majesty's Ships in India, having brought to the notice of Government the very essential and important services rendered by the Parsi master-builder, Manockji, and Bamonji Lowji and their two sons Framji and Jamshedji Lowji, in refitting His Majesty's Squadron, recommended a grant to the family, of a portion of the Company's Batty Grounds producing a net income of forty mooras of batty annually.

First Grant.

The Board accepting the Commander-in-Chief's recommendation put Manockji Lowjee Wadia and Bomanjee Lowjee Wadia in possession of certain lands at Parel on the 12th June 1783. The deed\* of gift was drawn on the 29th December of the same year.

This grant was confirmed and ratified by the Court of Directors in their letter of 28th April 1795 in which they observed that they had themselves borne frequent testimony to the merits of the master-builders.

Second Grant.

The second Grant† was made in the year 1821. Government were pleased to comply with an application from Jamsetjee Bomanjee for a grant of land yielding an annual rent of Rs. 6,000. On the 29th January 1822 Government authorized the Collector to put Nowrojee Jamsetjee in possession of certain batty grounds situated in the villages of Parel, Naigon and Sion and in the Cassabay‡ of Mahim, yielding an annual revenue of Rs. 2,000, the remainder, viz. Rs. 4,000, having been made good by the grant of lands in the island of Salsette. Jamsetjee Bomanjee having died before the grant was made the formal deed § of gift was drawn up in favour of Nowrojee, Muncherjee and Dossabhoy, sons of Jamsetjee Bomanjee, and executed on 29th May 1828.

The lands in the village of Sion granted under this grant being intermixed with Government lands made it somewhat difficult for the Inamdars to collect the revenue therefrom. They therefore requested Government to take over the Sion lands and give them in exchange a reduction in the amount of the annual subsidy which

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\* Vide Appendix C. † Vide chapter I, page xxviii, supra.

‡ A small town or a large village. § Vide Appendix D.

they paid to Government in respect of certain Khot; villages in Salsette. This was acceded to and a deed of exchange was executed in 1855.

The third Grant\* was made in 1885 to Khan Bahadur Jamsetjee Dhunjibhoy Wadia in consideration of the exceptional services rendered by him during his long official career extending over a period of more than 40 years in His Majesty's Dockyard. Khan Bahadur Wadia had also taken an active part in the arrangements for fitting out expeditions for Persia, Abyssinia, Malta, Afghanistan and Egypt and had thus well maintained the reputation of his family. The land granted under this grant consists of some 337 acres of land situated at Dharavi and Sion. They are comprised in the deed† dated 19th December 1885. Third Grant.

The Inam lands are situated at Naigon, Parel and to the north-west of the Sion Fort. Small portions lie near Dadar and Dharavi. The Inami lands pay no assessment to Government. Their area is 1,181 acres.

The relations between the Inamdar and his tenants were once made the subject of a High Court Suit. In 1879 the Government of Bombay introduced a new mode of assessment on the 'Toka' lands. The Inamdars were at the same time advised to assess the lands granted to their predecessors by the Indenture of 29th May 1828 on a revised scale on the strength of the alleged power reserved to them by that deed. A test Suit, No. 439 of 1889, was brought in the High Court by Cursetjee Nowrojee Wadia against Messrs. E. D. Sassoon and Company to establish this right. The case was heard by Mr. Justice Parsons and the Inamdars' right to charge the assessment on revised scale was declared and confirmed on the 15th of February 1890.

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\* Vide page xliii, supra.

† Vide Appendix E.

## INTRODUCTION.

The defendants having appealed against this judgment, the Appellate Court directed that the Secretary of State for India should be made a party to the suit and ordered a re-trial. The plaintiff's Solicitors thereupon addressed the Collector to obtain a declaration that the grantees were entitled to increase the rent. The Advocate-General advised the Collector to grant no such order until it was decided in the Suit that the Inamdars were so entitled. He thought that the terms of the document were so obscure that it was possible on one construction to argue that under the terms any enhancement should go to Government and not to the over-holder.

The Collector, Mr. (afterwards Sir James) Campbell, in a letter of April 1891, observed as follows:—"The present grantee seems to me to occupy the position of an Inamdar. The received relation between an Inamdar and Government is, I believe, that Government make over to the Inamdar their share and interest in the revenue of the land. When under a revised settlement the Government rates in Government lands are enhanced the usual position is that the Inamdars of neighbouring and similar land are entitled to enjoy a similar enhancement of rents from their tenants, Government claiming no share in the Inamdar's additional receipts. Though under ordinary circumstances the enhancement would pass to the Inamdar or grantee, I agree with the Advocate-General that in the present case it is at least open to question whether it was not the intention of Government in 1828 to limit the grantees' interest to the existing rents estimated in the deed at Rs. 2,000 and to reserve to themselves the right to any enhancement on the lands in question which a revision of settlement might realize."

## INTRODUCTION.

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The Collector suggested that Government should accept the position of parties to the suit and instruct their law officers to press the Government claim to the increase recoverable under the revised settlement rates. Government concurred in the view taken by the Collector and passed a resolution on the 21st April 1891 to that effect. But before the Secretary of State was made a party to the legal proceedings in the High Court the suit between the Wadias and the Sassoons was compromised by mutual agreement and the points at issue remained judicially undecided.

On the 26th June 1895 the executors of Mr. Cursetjee Nowrojee Wadia made a petition to Government requesting consideration of the following points :—(1) That the terms of the grant were quite explicit and gave the grantees authority to charge assessment from time to time on the same scale as might be fixed by Government for similar lands, (2) that some time after the grant was made Government having reduced the rate of assessment on their toka lands the Inamdars were obliged to do the same as regards their own lands, (3) that the tenants of the land were all entered not in the Collector's books but in their own, (4) that in the villages in the Thana District of which grants were made in a similar way they raised the assessment and were receiving it from the tenants without any objection, (5) that Government in reassessing their own lands excluded the land covered by the Indenture, and (6) that it was clear from the grant that it was never the intention of Government to create a favoured class of ryots enjoying their lands on the payment of a fixed rent far below that paid by other ryots.

To this petition Government sent the following reply :—“ Government without foregoing any claim the public exchequer may have to the amount by which



the assessment may be enhanced have no present intention of recovering that amount on their own account or of interfering with the recovery of it by the petitioners." A further reference was made by the Collector to Government regarding their claim over the Inam lands under acquisition for the City Improvement Trust. Government in April 1909, directed that no claim on the part of Government should be made in respect of land held as Inam by the Lowji family under the grants of 1783 and 1828. \*

(6) Leasehold.

Farming leases were common in early years, but regular leases began to be executed in 1758. Leasehold lands are held all over the Island under various conditions and for terms of 21, 50, 99 or 999 years.

The 21 years leases as generally renewable, some at revised rents and some at the same rents but on payment of small fines. •

Some of the 50 years leases are also renewable every 50 years at revised rents, but some are renewable for one further period of 50 years only.

A major portion of the 99 years leases are non-renewable, the others being only once renewable. Those for lands in Mazagon are renewable at revised rents.

Some of these 21, 50 and 99 years leases contain a clause reserving to Government the power to resume the lands on 6 months' notice, if required for a public purpose, on payment to the lessee of the value of the buildings and improvements on the land.

The 999 years' leases are of course non-renewable.

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\* The wording of the Inam grant of 1885 being clear, there was no necessity of taking Government orders on this point.

Leases of lands on the Esplanade, some of which are for 999, others for 99 years, are the only proper building leases, framed on the model of London leases, in which architectural conditions are enforced. The lessees are bound to insure the buildings and keep them in substantial repairs. The buildings revert to Government at the end of the term of the lease. The present policy of Government in respect of the grant of leases\* in Bombay is based on the recommendations of the Leases Committee of 1892.

The area under lease in Bombay is about 462 acres.

The Sanads cover a period of 40 years from 1814 to 1854, during which 828 Sanads were issued. The sanadi lands are mostly situated in the New Town. They were generally issued on the application of individuals for building sites. The sanads were mostly of three different types, with the exception of a few special grants made for some specific purposes. Of these only two are extant. (7) Sanadi.

The sanads for lands in Colaba which were of the third type and were all granted in 1815 were cancelled and the lands resumed in the years 1823 and 1866 when the limits of the Colaba cantonment were extended.

Under the first † of the existing types the holder is a mere tenant-at-will, the land being resumable by Government. Under the second ‡ the land can be resumed, if required for a public purpose only, on 6 months' notice being given and on payment of the value of buildings and improvements thereon.

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\* For forms of leases in present use vide Appendices F and G. Vide Chapter I, pp. xliv-xlvi. † Vide Appendix H.

‡ Vide Appendix I.

The existence of the Sanads was for a long time forgotten. No separate rent-rolls explanatory of the exact nature of the sanads were prepared, the lands having been entered in the rent-rolls for the quit and ground rent lands and receipt bills issued under that tenure.

The sanads have lately been carefully indexed and shown under separate rent rolls.

In 1904, Government issued instructions to the Collector to offer to the holders of sanadi lands a more permanent tenancy of a 50 years' lease renewable for another 50 years. The rent for the first term of 50 years has to be fixed at 2 per cent. on the value of the land in the case of the sanads of the first type and 1 per cent. in the case of the sanads of the second type. For the second term of 50 years the rent has to be fixed at 4 per cent. of the value of the land in both the cases.

This offer was modified in 1906 by the further alternative of an option for a conversion of the tenure of these lands into that of quit and ground rent on payment of (i) a certain amount of premium or (ii) an additional annual assessment representing 4 per cent. of this premium.

The conversion\* of sanadi lands into leasehold or quit and ground rent lands is still in progress.

The area at present held under Sanads is 127 acres.

(8) Newly  
Assessed.

This tenure has its origin in Bombay Act II of 1876. The Revenue Survey of 1872 discovered numerous encroachments on Government lands more especially on lands contiguous to the Inam lands granted to the Lowji family. When the Act was passed these

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\* Form of certificate of conversion of Sanadi tenure into that of Quit and Ground Rent, vide Appendix J.

encroachments \* were all assessed by the Collector under section 8 of the Act and converted into 'lands newly assessed.' This tenure also comprised land granted from time to time to private individuals, after the passing of the Act on payment of an annual rental fixed under section 8. The circumstances of all grants, however, do not appear to be alike. In some cases Government waste lands yielding no revenue to Government and situated in such localities as Mahim, Dharavi, Sion, Matoonga and Naigaon were assessed and granted on payment of an annual assessment. In other cases the right of occupancy was sold by public auction on payment of a yearly rent subject to revision every 50 years; while in other cases lands were assessed and converted from 'leasehold' to 'newly assessed', in consequence of some leases (mostly in Kamatipura) having expired and the lessees being unable to bear the charges of the Government Solicitor for the preparation of the new leases, the lands being less in worth than the Solicitor's charges.

A general revision of assessment on these lands was made in 1899 and the revised rental was guaranteed for 30 years in the outlying and 50 years in the central localities. The assessment of lands which had been guaranteed at the dates of the grants was of course not disturbed. The revised assessment was fixed on a 4 per cent. basis. The effect of the revision was an increase from Rs. 3,122 to Rs. 20,659. The area covered by this tenure is 134 acres.

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\* In 1839 Mr. Bruce brought to the notice of Government some encroachments made by the Inamdars on the adjoining Government lands. The encroachments discovered by him were to the extent of 1,73,040 sq. yds. In 1872, Major Laughton discovered a still larger difference. The area discovered by him and brought under assessment was 2,41,966 sq. yds. The assessment was made at the uniform rate of one pie per sq. yd. except in a very few cases where it was reduced to half that rate.

The rights of Government in lands of this description are too clearly defined to need any elucidation. Although the lands were primarily Government lands the right of resumption has been lost to Government; but the assessment is liable to revision at the end of the period of guarantee.

(9) Tenancy-at-will. The term needs little explanation. The lands are granted under agreements \* which can be terminated by one month's notice on either side. The tenants have no right to build permanent structures on the lands so let to them.

The tenancies-at-will commenced as far back as 1850. The lands were granted to individuals without any agreements. The formal agreements in respect of these lands were made about the year 1870. Most of these lands were situated at Mahim, Kamatipura and Choupaty.

In 1899 the tenancy of most of the lands under this description of tenure was determined and the holders were made to enter into regular leases with Government.

A few subsequent grants of lands under this tenure have been made from time to time where a permanent occupancy by a tenant was not considered desirable. These lands are scattered all over the Island. Their present area is 13 acres.

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\* For form of the agreement, vide Appendix K.

## CHAPTER V.

## SURVEYS.

The first mention of a survey of the Island was in 1670-71 when Mr. Harman Blake was appointed Engineer and Surveyor-General of Bombay. His surveys were directed to ascertain the rights of property as well as to the works. This survey is not forthcoming.\*

In 1679-80, orders were received from the Court of Directors to survey all uncultivated ground and let it out on rents as also to drain the marshy ground and render it fit for agriculture. In a letter of 24th March 1710, the Court again proposed that the lands in Bombay should be surveyed and registered. In 1747, the Collector, Mr. Byfield, suggested the necessity of a survey in order to check encroachments which were being unauthorizedly made on the Company's ground and the Clerk of the Works was appointed to bring about a general survey. There is, however, no record to show whether these surveys were undertaken; and if they were, they must have been of a fragmentary character.†

On 19th May 1772 "an exact and accurate survey" of the whole Island was ordered to be made under the direction of the Collector of Land Revenue in order "that the situation of the Honourable Company's villages and oarts as well as those of other persons may be laid down"; and Lieut. Turner was appointed to superintend the survey. The Collector estimated the cost of the survey at Rs. 3,912 and the time it would take at 18 months.‡ No mention of the further development of this survey is found and it is not until 1811 that records

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\* Materials III, p. 258. Warden, para. 24.

† City Gazetteer, p. 327. ‡ Collector's Diary.

of any authentic survey are available. But there is no doubt that prior to 1811 there must have been a survey of some sort, for, as appears from Capt. Dickinson's letter to Government dated 7th August 1813, he had a map of the Island of Bombay on a very small scale before him. What kind of map it was or to what survey it pertained is not known.

Dickinson's  
Survey, 1811-  
1827.

The survey of 1811 was commenced under Lieut. Hawkins of the Engineer Corps. The primary object of this survey was for the purpose of ascertaining the number of cocoanut, brab and other trees in each oart and the names of the proprietors thereof. But very soon after the commencement the survey operations were extended so as to define not only the boundaries and the extent of the Company's property but of that of the inhabitants in general and to specify the nature of the tenures under which all lands in the Island were held. This survey was continued under Capt. Dickinson of the Company's Engineers, who was the Superintendent of the Survey for many years. It was finally completed under Capt. Tate of the same Corps in August 1827. During this survey the southern half of the Island was minutely surveyed and registers showing various details were compiled. The northern half was only topographically surveyed and only the areas held under the different tenures were denoted on the map. The maps of this survey are very neatly drawn and are still extant. The cost of this survey was Rs. 1,63,000. The operations of this survey brought to light many encroachments and instances of the enjoyment of land by individuals without payment of rent.

In 1844, a system was introduced with the sanction of Government, of surveying every holding, transferred from one person to another or of which a deed of sale was

presented in the Collectors' office for registration. All questions of encroachment were adjusted and the property itself was specially defined before the transfer was recorded. This method proved somewhat desultory, the existing survey records being hardly sufficient for the purpose of identifying the holdings. To provide a remedy, a revisional survey of the Island was proposed by Mr. Rose, Officiating Collector, in a letter to Government dated 31st March 1852. Such a general survey was not sanctioned by Government; but a survey of the Mahim Division was begun by the Survey Department of the Collector's establishment in 1857. It was continued upto 1859 only, when it was discontinued owing to a reduction of the survey establishment. This survey shows the boundary of each property and though it was of considerable use it could not be incorporated in the Revenue Survey, as the traverse points had never been accurately laid down in connection with the Trigonometrical stations of the Great Trigonometrical Survey.

Departmental Survey, 1857-1859.

The next revenue survey of the Island was commenced in the year 1864-65. In September 1859, Government had asked the Collector to consider the advisability of raising rents on lands generally throughout the Island. The Collector, Mr. Showell, in discussing the landed rights of Government at great length, said that as a primary measure a carefully executed revenue survey of the whole Island accomplished by a settlement of boundaries and rights of holdings was indispensable.

Laughton's Survey, 1865-1872.

Capt. Francis, Superintendent of the Thana Revenue Survey, who was consulted on the subject, supported Mr. Showell in his view that a revenue survey for Bombay was urgently called for and suggested the commencement of the operations as soon as possible. He estimated the cost of the survey of the Mahim Division at Rupee one per acre.



In July 1864, Capt. Waddington was deputed for the purpose of examining the existing maps of the Island. In the following August he made his report and, after obtaining the necessary sanction of the Government of India, the actual operations of the survey were commenced in November 1864.

Capt. Nasmyth, R. E., was at first employed in triangulating the Island and fixing by traverse a series of points as a basis for detailed chain measurements which were subsequently made by a Revenue Survey party under Major Laughton.

The details of this survey can best be summarized in the following extracts from Lieut.-Col. Laughton's report, No. 420, dated 23rd November 1872 :—

“As Revenue Survey Act No. 1 of 1865 does not apply to the Island of Bombay, owners of properties could not be compelled to show their boundaries or even the locality of the land they laid claim to.

“It is true that due notice was given them previous to the measurements of their fields being commenced ; but in numerous instances these notices were treated with silent contempt, and the Surveyor had to rest satisfied with such corroborative evidence regarding the boundaries, as he could obtain from individuals working in the adjoining fields.

“All these boundaries have since been verified with detailed plans whenever such documents were forthcoming in the Collector's office ; and others, with numerous plans attached to deeds of sale bearing the Collector's signature ; and latterly, when compiling the registers most of the ground has again been gone over, thoroughly examined, and I can now safely

assert that out of the numerous properties in the Island (21,575) there is hardly a case unless one of dispute, where the correct area has not been entered in the register.

"The subject of boundary marks was one on which considerable thought was taken before the system now obtaining was finally adopted. In all mofussil surveys, the corners and outlines of Revenue Survey numbers are demarcated by earthen mounds, and stones fixed according to certain rules.

"Such a plan could not possibly have been adopted in Bombay, for the obvious reason that an earthen mound, wherever raised, would take up too great a space of exceedingly valuable ground.

"Finally, it was determined to fix only the corners of properties, and that cast-iron marks should be used for that purpose.

"Fifty bench marks, of large cut-stones, have been permanently fixed; their values as levels have been carefully checked, and the figures cut upon the stones, so that at any time the level of any portion of the Island can easily be obtained by simply referring to the nearest bench mark, none of which are more than half a mile apart, and many of them closer.

"Levels were taken at every 300 feet along the principal roads, and the height has been shown on the large scale maps.

"With the exception of a small portion of the Island on the eastern side where the salt-pans are situated, the outlines of high water-mark at spring tides, and high water-mark at ordinary or neap tides, have been carefully laid down all over the Island, and are shown on the large maps.

"All the hills on the Island have been carefully and accurately contoured, some of them to every 5 feet, but most of them to every 10 feet."

Plans principally on a scale of 40 feet to an inch for the southern half and 100 feet to an inch for the northern half of the Island, were prepared together with the registers showing the area, the name of the occupant and the tenure of every holding.

The area of the Island as determined by this survey was 22 square miles, 105 acres and 4,149 square yards. The cost of this survey was Rs. 3,13,062-3-10. After the survey was completed all the record was handed over to the Collector of Bombay. The survey was finished in 1872.

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## APPENDIX A.

Whereas since the Isle of Bombay was surrendered to the possession of His Sacred Majesty of Great Britain, some occasions of great discontent did succeed through the want of a due understanding what did belong of right to the Crown and what did belong to the people which gave the original cause of seizing of lands and estates of several people to the general disquiet of His Majesty's subjects; And whereas since His Sacred Majesty did by his Royal Grant bestow the isle of Bombay to the Honourable East India Company, orders were issued out by the Governor and Council of this isle, in obedience to His Majesty's and the Honourable Company's commands, for restoring the said lands to the persons who were aggrieved, provided that upon examination of their titles they could show just right thereunto. It so happened that, in the examination and decision of the said titles, many doubts and important causes did arise which might have given great cause of disquiet to the present possessors of houses and estates in the isle that the titles in right of which they held their lands had become exposed to censure. The people therefore thought fit of their own free motion, by mutual assent in a public declaration and manifesto, to propose to the Governor and his Council that they would pay a yearly contribution, or composition of twenty thousand Xeraphins to the Honourable Company, including the present quit-rent or foras, provided that the present possessors of their respective lands and estates may be confirmed and established in their possessions and thereby be secured from all doubts and scruples that may arise thereafter. Also that the lands formerly seized may be restored to the pretenders thereunto. The Governor and Council have duly weighed the said proposals, and

having just regard to the quiet content and satisfaction of the good people in general and to the establishment of this Government on the firmest basis of an everlasting and universal peace and tranquillity, did think good to appoint a general assembly of the chief representatives of the said people to be held at the Castle of Bombay on the 1st of October last. In this assembly the said Governor and Council, for the reasons before expressed, did cheerfully give their assent to the peoples' own desire for the further confirmation of this agreement. Thereupon the said representatives of the people did, on the 4th of October following, present unto the Governor and Council a paper containing twelve articles, wherein matters of consideration and further debate arising, it pleased the said Governor and Council to appoint another general assembly whereunto all the people in general interested in this affair were invited to appear, that the debates and controversies on both sides being publicly and fairly stated and all scruples amicably and justly controverted, a happy issue and accommodation might be confirmed to the security as well of the Honourable Company as of their subjects and inhabitants in general. This assembly was held in Bombay Castle on the 1st of this current November, where was then present the Honourable Gerald Aungier, Governor and President, Mr. Henry Chowne, Mr. John Child, Mr. George Wilcox, Mr. James Adams, Attorney-General for the Honourable Company, Mr. Stephen Ustick, all of the Council. As also Mr. Samuel Walker, Secretary to the said Council, and Signor Antonio Ifretis de Silva, the Portuguese Secretary, Signor Luis Cassadive de Lima, Assistant to the Attorney General, Father Reginald Burgos, Procurator for the Reverend Father of the Society of Jesus, Mr. Henry Gary, Signor Alvaro Perez de Tavora, Lord

of the Manor of Mazagon, Signor Pedro Luis Timon, Procurator, Signor Martin Alfius de Mello, Francisco Pretto Juan Pereira, and Antonio de Lima of Bombay, formerly chosen representatives of the people of this isle in general. The said declaration and articles presented by the people were publicly read, the contents whereof are as followeth: The substance of the composition between the Honourable East India Company and inhabitants of this isle, Bombay and Mahim, subjects of the said Company and others having lands of inheritance on this isle or living in other places:

1. That for the better way of agreeing in the express charges that the Company have for the defence of this isle, the inhabitants and others aforesaid do offer to the Honourable Company 20,000 Xeraphins (Rs. 13,850) yearly including in this sum the quit-rents that they did pay formerly and desire these conditions, namely:

2. That by virtue of this contract all law suits and controversies shall cease between the Honourable Company and the said subjects interested in this isle, concerning the possession they had formerly in their estates thereon when His Sacred Majesty of Great Britain took possession of it.

3. That by the said composition the Honourable Company shall of new confirm the estates of the said inhabitants notwithstanding any suspicion that the present possessors may have fallen into until this present time.

4. That if the Honourable Company do grant to any person not to pay what may come to their shares, then that the said sum shall be deducted out of the 20,000 Xeraphins, and this in respect of this composition is made upon all estates and lands of inheritance of those interested on the isle.

5. That the estates that are seized on shall be delivered again to the old possessors of what conditions soever.

6. That in respect the restoring the several estates the Honourable Company would be pleased to excuse the measuring the same that the people may not be also at great charge considering their extreme poverty.

7. That for the time to come if any estates on the isle come to the Honourable Company by any title whatsoever, or likewise by cutting any tree, or seizing any oarts or batty grounds for the use of building the city, or other ground for the defence of it or any other fortification, that the quantity that amounts to the said estate with the quit-rents shall be deducted according to the value of the Palmyras or the ground.

8. That the possessors may dung the trees and ground with babaxim \* and cuta † as they ever did do, without paying anything for the same as a duty by way of excise or custom, but what was formerly paid.

9. That in case of any storm or other damage (which God forbid) the Honourable Company shall deduct out of the 20,000 Xeraphins according to the loss of their estates which shall be done by honest persons from the said inhabitants.

10. That for the more expedient raising the sum as likewise for the valuing the estates, and for the giving satisfaction to the Honourable Company at the time to come, the inhabitants shall appoint the persons, to whom the Company shall give power for raising the said sum which shall be done for the quietness of the inhabitants and the interest of the Honourable Company as it will but only be at the Company's charge to allow two guards at both places, Bombay and Mahim.

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\* Small fish.

† Dry fish manure.

## INTRODUCTION

cxyii

11. That the said 20,000 Xeraphins shall begin to be paid on the 9th February 1673 in three payments every year, and the said Honourable Company shall not demand the payment before that time.

12. That one of the principal things in this composition is the quietness and security of the inhabitants, who desire his Honour with the Gentlemen of his Council and other Ministers of the Honourable Company, to accept and establish this contract with the conditions herein mentioned, and that it be confirmed by His Sacred Majesty of Great Britain and the Honourable Company with all that is necessary to be done without any invocation (innovation?). All which the inhabitants desire to be done with all possible speed.

These Articles being seriously and publicly debated, and all material scruples discovered and answered on both sides, it pleased the Governor and Council out of their earnest and unfeigned desire to promote the public good, peace and tranquillity of the isle, and to unite the hearts of the inhabitants in a firm and indissoluble tie of obligation to His Sacred Majesty and Honourable Company's service, to declare their assent to the said articles in the manner and on the conditions following: —

1. That in consideration of the 20,000 Xeraphins to be paid annually at three payments into the Honourable Company's treasury, the said Governor and Council do in behalf of the Honourable East India Company promise to put a final end to all claims, pretences, and law suits whatever which have arisen or may arise between the Honourable Company and the people touching the titles, lands or estates of palmyras, cocoanut trees, or batty grounds, throughout the whole isle excepting what is by joint agreement accepted.



2. That to the present possessors be granted new patents, confirmed according to the respective titles, by which their heirs and successors shall enjoy their estates.

3. That if the Governor and his Council at present in power, or their successors shall think good, in behalf of the Honourable Company, to exempt any person enjoying the said lands from paying his proportion of the said contribution, or shall make use of any part of the said lands for the necessary occupation of the public, abatement shall be made out of the said contribution, in proportion to the lands so exempted or disposed of, and this in respect the said contribution is made upon all the estates and lands of inheritance of the whole isle.

4. That all estates of batty grounds and cocoa-nut trees seized by former Governors and now in possession of the Honourable Company shall be restored to their respective owners, and they, their heirs and successors confirmed in their said possession as above is expressed. ■

5. That if, in time to come, any of the said lands or estates shall fall to the Honourable Company by any title whatsoever, as also if any trees shall be cut down, or any oarts \* of batty ground made use of for the building of cities, towns or fortifications, then the value of the said lands or trees shall be computed, and a proportionable abatement made out of the contribution, as is expressed in the third article.

6. That as to the particular of dunging the palmyras and batty grounds with fish it is agreed unto by the Governor and Council and granted of as much import

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\* Places planted with trees.

to the contribution that what part of the isle hath this year been permitted to be dunged with babaxim shall be still permitted reserving the ground which is comprehended within the line of the city which by God's assistance is intended to be built. But in respect the above said dunging the ground is forbidden generally by express orders from the Honourable Company of London, it is necessary that their license be had thereunto. For the effectual securing of this it is convenient that the people do send their humble petition to the Honourable Company by their ships and the Governor and Council will intercede in their behalf and doubt not the Honourable Company will be pleased to confirm the grant, seeing it is so profitable to the public.

7. That in case hereafter by reason of any storm or calamitous accident (which God divert) part of the said lands or estates be destroyed or rendered incapable of bearing fruit it shall be referred to the Governor and Council then being to make such reasonable allowance of the contribution, as shall consist with equity, good conscience and ease of the inhabitants.

8. That for the greater convenience and ease of the people in raising the said sum of 20,000 Xeraphins liberty shall be granted to the interested for to nominate and appoint from among themselves such persons of sober and honest reputation as they shall think fit for the proportionable valuation of all estates and lands and for the collecting and receiving the said money and paying it into the Honourable Company's treasury, which said persons are to be confirmed by the Governor, and shall take an oath on the Holy Evangelists to deal justly and impartially with all. That the Honourable Company shall not be at any charge in receiving the said sum. But for the greater authority and accommodation of the

said persons so appointed, two officers shall be ordered by the Governor in behalf of the Honourable Company to assist them in their said office, as occasion shall require.

9. That all royalties, rights, privileges, and immunities which did formerly belong to the Crown of Portugal of Foras and Royal rents of what nature or condition soever shall be reserved as of right they belong to the Honourable Company.

10. That in regard the little isle Colio \* reaching from the outer point westwardly of the isle to the paccari † or parish called Polo ‡ will be of great use to the Honourable Company, in the good design which they have for the security and defence of this whole isle, it is hereby agreed that it shall be totally and wholly reserved for the use of the said Company they making such reasonable satisfaction to the persons interested therein as hereafter is expressed.

11. That whereas by the manifesto presented by the people the first payment of the 20,000 Xeraphins should begin the 9th of February next ensuing it is agreed the first payment due on the 9th February shall be suspended to the 9th June following being the year 1673, which said sum shall be left in the hands of the people, by the Governor and Council, towards purchasing and buying out those persons who have estates and lands in the Colio, whom they are obliged to satisfy in their respective demands, always provided that the people shall pay the quit-rent due the 9th February as was formerly accustomed.

12. That in regard the Company have expressly ordered a survey to be taken of the whole isle, it is necessary that the lands and estates of each person be measured, the charges whereof shall be limited with a just moderation for the ease of the people.

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\* Colaba. † Pakhadi. ‡ Palav, Apollo.

13. That there shall be reserved for the Honourable Company all grounds on the water-side within the compass of the isle to be disposed of in necessary occasions for the public excepting such grounds wherein there are at present planted gardens of cocoanut trees or rice grounds, as also churches, houses or warehouses of stone. And whensoever, for the public good, it shall be necessary to make use of any of the said places or properties the Governor and Council shall make satisfaction to the interested in a reasonable manner. But the people are to take notice that in this they receive a particular favour from the Honourable Company their Governor and Council, in regard that in all kingdoms of the world, the ground on the water-side from the distance of 40 yards at least from high water-mark belongs as a sovereign right and privilege to the Kings or Princes thereof.

14. That seeing the principal aim and intention of this happy agreement and composition is designed for the security, tranquillity, peace, and universal content of the respective inhabitants, the Governor and Council do in behalf of the Honourable Company establish and ratify this agreement, as perpetual and irrevocable, between the Honourable Company and the people, and for the further satisfaction of the inhabitants and people, they do promise to prevail with the Honourable Company to establish and confirm the same by patent made under their hands and seals, and given under our hands and sealed with the Honourable Company's Seal in Bombay Castle, the 12th of November anno 1672.

(Sd.) GERALD AUNGIER,

Governor and President, and others.\*

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\* Materials III, pp. 257-262.

## APPENDIX B.

Act No. VI of 1851.

Whereas the East India Company are legally entitled to the freehold reversion of the several lands heretofore paying a render called foras, the outline whereof is delineated in a plan deposited in the office of the Secretary to the Government of Bombay, and authenticated by the signatures of the Right Honourable the Governor and Members of the Council of Bombay, and numbered 1, subject to certain tenancies therein at will, or from year to year; and whereas it is considered expedient as of grace and favour that the rights of the said East India Company in all of the lands included in the said plan, save those marked upon the said plan as to be taken, or as having already been taken for public roads, tanks, and other public purposes, the outline of which lands so to be or having been taken is also delineated in another plan, numbered 2, also deposited and authenticated as aforesaid, should be extinguished, save as hereinafter mentioned, It is enacted as follows:—

I. The lands comprised in the said plan No. 2 shall, from and after the 1st day of July in the year 1851, be vested in the said Company, free from all rights therein of all other persons, for the purpose of constructing public roads, tanks, and other public purposes.

II. From and after the said 1st day of July, the rights of the said Company in all of the said lands mentioned in the said plan No. 1, except those mentioned in the said plan No. 2, shall be extinguished in favour of the persons who shall then hold the same respectively as the immediate rent-payers to the said Company, sav-

ing the rents now severally payable in respect of such lands, which shall continue payable, and recoverable by distress, or by any means by which land revenue in Bombay is or shall be recoverable, under any Act or Regulation, and saving, also, all rights of forfeiture and escheat, in respect of want of heirs or representatives, or of felonies committed, or otherwise in respect of attainder.

III. As between such rent-payers and other persons, such extinguishment shall endure for the benefit of the persons beneficially entitled to the lands thereby affected, and not of any mere trustee or other person in whom the legal estate only is or may be vested.

IV. Nothing herein contained shall exempt such lands from being liable to any future general taxes on land in Bombay, or from being subject to Act XXVIII, 1839, and Act XVII, 1850.

V. After the said 1st day of July, as soon as shall be convenient, the Governor of Bombay in Council shall appoint fit persons, not exceeding five in number, to be Commissioners under this Act, for the purposes hereinafter mentioned (with such salaries or remuneration as to the said Governor in Council shall seem fit); any three or four of whom met together (two being officers of Government), may do any act which by this Act the Commissioners are empowered to do; and in case of the death, resignation, removal, or absence of any such Commissioner, the Governor in Council shall appoint another in his room.

VI. A duplicate of the said plans, authenticated by one of the Secretaries to the Government of Bombay, shall be lodged with the said Commissioners, and shall form a record of their office.

VII. From and after the said 1st day of July, the said Commissioners shall proceed to estimate the value of the several portions of land, and the improvements thereon, comprised in the said plan No. 2, and of the expenses which will be incurred in executing this Act, and to assess the amount of such estimate in such way and in such proportions as to them shall seem right, to and upon the lands mentioned in the said plan No. 1, and the fund to be raised by such assessment shall be denominated the "Foras Länd Assessment Fund"; and for the purpose of framing such estimate, and making such assessment, the said Commissioners may summon as witnesses any persons whomsoever, whether interested or not in the said lands, and examine them on oath or otherwise, as they may see fit, or proceed upon a mere estimate, according to the best of their judgment, without evidence.

VIII. Any person summoned as a witness, and refusing, or without lawful excuse neglecting to appear and give evidence according to the terms of the summons, may, on proof thereof, be fined by any Magistrate of Police for every default a sum not exceeding ten rupees, to be paid to the said Commissioners for the said Foras Land Assessment Fund, and may be committed to prison in default of payment.

IX. The said estimate and assessment, when completed, shall be signed by the said Commissioners, and form a record of their office.

X. After the completion of the said estimate, the said Commissioners shall make out and sign certificates, which shall, by numbers, or in such other way as to the Commissioners may seem more convenient, refer to the several portions of land mentioned in the said plan No. 2.

and shall show the estimated value of the land, and improvements thereon, to which the same refer, which certificate shall give to the holders thereof a right to demand payment of the sums for which the same are in the body of the same expressed to be granted, from and out of the said Foras Land Assessment Fund, after the said Commissioners shall, by public advertisement in the Bombay Government Gazette, have advertised that they are ready to redeem the said certificates.

XI. The persons who shall have been the rent-payers to the said Company on the said 1st day of July of any land mentioned in the said plan No. 2, or their representatives or assigns, shall be entitled to be the first holders of the certificates relating to the same lands.

XII. When the said certificates shall have been completed, the said Commissioners shall distribute the certificates to the persons entitled thereto; or, if it shall appear to them doubtful to whom any certificate should be delivered, may deposit it with the Prothonotary of the Supreme Court of Judicature established at Bombay by Royal Charter, which Court may adjudicate upon the right to any certificate so deposited, and may direct how such right shall be tried.

XIII. The delivery to any person by the Commissioners of any certificate shall not confer upon him any right to retain the same as against any person having a better title thereunto, who shall be at liberty to sue for and recover the same, and all benefits thereto belonging, in the said Supreme Court, by such proceeding as the said Court shall direct.

XIV. When the said assessment shall have been completed, the Commissioners shall give notice thereof in the Government Gazette, and after the expiration of



three weeks next following the publication of such notice, shall proceed to collect the assessments, and, if necessary, to levy them by distress and sale of any goods found on the said lands, or by sale of the lands assessed; and the said Commissioners shall keep accounts of the sums received for assessment, and pay the same from time to time into the Bank of Bombay.

XV. The said Commissioners, subject to the approval of the Governor of Bombay in Council, may employ such surveyors, accountants, and clerks, as to them shall seem fit, and incur such other charges, and make such disbursements from the said Foras Land Assessment Fund, as may be necessary for executing the provisions of this Act.

XVI. The Commissioners may receive any portion of the assessment from any person, but any receipt granted by them for the same shall not affect the title to any lands in respect whereof the same shall have been paid; and when the said Foras Land Assessment Fund, or such portion thereof as to the said Commissioners shall seem adequate, shall have been recovered, the said Commissioners shall redeem the certificates, on demand, by the holders thereof.

XVII. When, on the sale of any land or goods for satisfaction of any assessment, more money shall be raised than is required to pay the amount to be levied, the Commissioners shall pay the overplus to such person or persons as shall appear to them to have been entitled to the land or goods sold; or, if they are doubtful to whom they should pay the same, may pay such overplus to the Accountant-General of the said Supreme Court; and any person claiming to be entitled thereto may sue for and recover the same by such proceeding in the said Supreme Court as the said Court shall direct.

XVIII. The Commissioners shall not be liable for the amount so paid to any person, in case another person having better title thereunto shall afterwards appear, but the same may be recovered from the party who received the same, or his representatives, at the suit of the person entitled thereunto.

XIX. The said certificates shall be transferable by endorsement.

XX. The said Commissioners, at any time after the said 1st day of July, may grant a warrant to any person or persons to take and deliver to the officers of the Bombay Government any of the lands mentioned in the said plan No. 2, which warrant shall confer on such person or persons the same powers and rights which the Sheriff has for executing a writ of possession issued by the Supreme Court.

XXI. The said Commissioners, with the consent of the Governor of Bombay in Council, to be signified in writing upon the said plan No. 2, under the hand of one of the Secretaries to the Government of Bombay, at any time before the completion of the assessment, may alter the plan No. 2 lodged with the said Commissioners, and corresponding alterations shall be made in the plan No. 1 lodged with the said Commissioners; and the Governor of Bombay in Council shall thereupon cause the like alterations to be made in the plans deposited in the office of the Secretary to the Government of Bombay; and if any such alterations shall be so made, the plans so altered shall to all intents and purposes of this Act be considered as the plans referred to by this Act. Provided always, that if any difference shall at any time appear between the plans deposited with the Commissioners, and the plans deposited in the office of the Secretary to the Government of Bombay, the latter shall be deemed the original and authentic plans referred to by this Act.

XXII. No action at law or other proceeding shall be brought in any Court whatsoever against any Commissioner under this Act for anything done or omitted to be done by him as a Commissioner thereunder; and a certificate in writing under the hand of one of the Secretaries to the Government of Bombay shall be evidence that any such act or deed of commission or of omission complained of was done by the Commissioners in execution of their powers as such Commissioners under this Act.

XXIII. On the close of the business of the said Commission, the records thereof shall become and be made a record of the Bombay Government.

XXIV. If at the closing of the said Commission there should appear to be any unappropriated balance of the said Foras Land Assessment Fund, the same shall be paid to the Municipal Fund of Bombay; and if the said Foras Land Assessment Fund should prove insufficient to answer the charges upon it, the deficient amount shall be paid from the said Municipal Fund, upon an order or orders, to be signed by the said Commissioners, countersigned by one of the Secretaries to the Government of Bombay.

FIRST SCHEDULE.

Containing the form which may be adopted for the estimate mentioned in this Act.

No. in plan.	Quantity in Sq. Yds.	Value, including improvements.

# INTRODUCTION.

cxix

## Assessment.

No. in plan.	Quantity in Sq. Yds.	Amount of assessment.

## SECOND SCHEDULE,

Containing the form which may be used for summonses for witnesses.

### *Commission under the Foras Land Act.*

You are required to attend the Commissioners on at o'clock the day of to give evidence under the provisions of Act No. VI, 1851.

( Signed ) .....

( " ) .....

( " ) .....

Commissioners.

## THIRD SCHEDULE,

Containing the form which may be used for certificates.

### *Foras Land Act VI, 1851.*

This is to certify that the holder of this certificate is a claimant on the Foras Land Assessment Fund in respect of land taken for public purposes under Act VI, 1851, for the sum of Rupees

( Signed ) .....

( " ) .....

( " ) .....

Commissioners.

## APPENDIX C.

This is to certify that Vice-Admiral Sir Edward Hughes, K.B., and Commander-in-Chief of His Majesty's Ships and Vessels in the East Indies, having by letter under date the 10th of March 1783 pointed out the great services rendered to the nation at large and the United East India Company by Manockji Lowji and Bomonji Lowji the two Master-Builders at this Presidency, and having also strongly recommended to us to confer on them a certain portion of ground on this Island which will yield annually forty mooras of Tocca batty.\* This is to certify that the said Manockji Lowji and Bomonji Lowji have accordingly been put in possession of certain batty grounds in the district of Parel with their Foras\* and perteneas\* of the said ground which will yield the above quantity of Tocca batty and that they are to be kept in possession of the same without molestation until the pleasure of the Honourable the Court of Directors is known. Given under our hands in Bombay Castle this 29th day of December in the year of our Lord 1783.

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\* Portuguese words signifying outlying or waste lands. (Perry's Oriental Cases, p. 532.)

## INTRODUCTION.

cxxx

### APPENDIX D.

This Indenture made the 29th day of May in the year of our Lord 1828 between the Honourable the United Company of Merchants of England trading to the East Indies of the one part and Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee of Bombay, Parsee inhabitants, sole heirs and representatives of Jamsetjee Bomanjee, late of Bombay, Parsee inhabitant and Master Builder in the Dockyard of the said United Company at Bombay, deceased of the other part, Whereas the said United Company in the lifetime of the said Jamsetjee Bomanjee being desirous to testify their approbation of his long eminent and faithful services as Master Builder as aforesaid resolved to grant to him and his heirs certain revenues accruing from and payable to the said United Company for and on account of certain lands situate in the island of Bombay and Salsette and whereas the said Jamsetjee Bomanjee departed this life on or about the 31st day of August in the year of Christ 1821 and before the said resolution could be carried into effect and whereas the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee as the heirs and representatives of the said Jamsetjee Bomanjee were afterwards that is to say on or about the 29th day of January in the year of Christ 1822 in pursuance of the said resolution put into possession of such revenues and have ever since continued to receive and enjoy the same but no deed in respect of the grant of that part thereof situate on the island of Bombay has yet been executed and whereas in order more fully to enable the said Now-

rojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee and their respective heirs as heirs and representatives as aforesaid to collect and receive such revenues from time to time and at all times hereafter as and when the same shall become due and payable and to enjoy the same as and for their own sole and absolute property the said United Company have agreed to execute these presents. Now this Indenture witnesseth that in consideration of the premises and also of the sum of ten rupees of lawful money of Bombay to the said United Company in hand paid by the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee at or immediately before the sealing and delivery of these presents the receipt of which is hereby acknowledged the said United Company have given granted bargained sold aliened transferred and assigned and by these presents do give grant bargain sell alien transfer and assign unto the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their heirs executors and administrators all and every the rents and produce sums and sum of money now due and of right payable or which shall or may at any time or times hereafter be or become due and payable as for or in respect of revenues collected or arising on and from the several pieces or parcels of ground and according to the statement next hereinbefore set forth being a statement of moorahs of batty calculated according to an average of 20 years preceding the year 1822 and amounting in value including foras to two thousand rupees yearly as appears by the Collector's statement in that behalf bearing date the 22nd day of January in the year of Christ 1822 that is to say:—

## INTRODUCTION.

cxviii

Villages.	Moorahs.	Parahs.	Adolies.	Seers.	Moorahs.	Parahs.	Adolies.	Seers.	Rupees.	Quarters.	Ras.
<b>PAREL.</b>											
Dewsett, batty ground..	2	19	15	0							
Harry, grand ..	2	9	1	2							
Collay ..	2	2	19	1							
Palut ..	1	17	12	1							
Doncolly, grand..	0	12	13	0							
" small..	0	4	4	2							
Erpeni Reaysensett	0	21	4	1							
Gosar Sally ..	0	1	19	0							
Khuzmall ..	5	8	18	0							
Worah Denicha..	0	11	2	1							
Kharell Condem..	0	2	2	0							
Cordum ..	2	10	14	1							
Dorgem, small ..	0	0	7	0							
" grand ..	0	23	14	0	19	21	5	3½	496	1	7½
<b>NAGAO.</b>											
Tank, batty ground ..	14	3	0	2							
Boroadeen ..	3	5	4	3							
Deguin ..	3	6	8	2½							
Sollonuru ..	2	0	14	0							
Warah ..	1	16	19	3½							
Cother Bhatt ..	0	3	2	3½							
Sunwar Bhatt ..	0	4	10	0							
Ambewady ..	0	1	15	0	24	13	16	2	613	3	30
<b>SION.</b>											
Allpom, batty ground ..	2	7	12	0							
Bomoy ..	0	9	0	1							
Hany ..	1	11	16	0							
Salsette ..	4	22	19	0							
Derkin ..	2	10	13	0							
Malungem ..	2	22	13	3							
Cuhnary, grand..	5	8	0	0							
Dungery ..	1	12	16	0							
Borewahem ..	0	13	3	2							
Sagersett..	5	24	19	2							
Angurum ..	1	11	2	0							
Bhaway ..	0	15	7	1	30	5	12	1	755	2	42½
<b>MAHIM CASSABHAY.</b>											
Nandvan, batty ground..					1	3	0	0	28	0	0
					75	18	14	2			
At Rs. 25 per Moorah ..	..	..	..	..	..	..	..	..	1,893	2	90
The amount of foras, viz.—					Rs.	qr.	rs.				
Hormusjee Bomanjee Wadia ..	..	..	..	..	41	0	37				
Cumbla Bhicajee ..	..	..	..	..	29	1	0				
Pestonjee Bomanjee Wadia ..	..	..	..	..	30	3	72		101	1	9
Petty income of Nagao village ..									1,994	3	99
									5	0	1
Total Rs. ..									2,000	0	0



—To have and to hold receive take and enjoy the said rents and produce sums and sum of money unto the said. Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their heirs executors and administrators henceforth for ever as fully effectually to all intents and purposes and with all such powers remedies and means whatsoever as the said United Company have or ever had or could or might have had taken received and enjoyed the same in case these presents had not been made and the said United Company for themselves and their successors do hereby covenant and agree to and with the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their heirs executors and administrators in manner following that is to say that for and notwithstanding any act deed matter or thing by the said United Company made done or committed to the contrary they the said United Company have in themselves good right full power and lawful and absolute authority to grant convey and assure the said revenues of the said villages or pieces or parcels of ground hereinbefore particularly mentioned or described unto and to the use of the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their heirs executors and administrators in manner and form as aforesaid and according to the true intent and meaning of these presents and further that for and notwithstanding any such acts matters or thing as aforesaid they the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their executors and administrators shall and lawfully may from time to time and at all times hereafter peaceably and quietly have hold receive and take the said revenues hereby granted and assigned or intended so to be to and for their own benefit subject nevertheless to the several provisions and declarations hereinafter particularly mentioned and moreover that they the said United Company and their

successors and all and every person or persons lawfully claiming or who shall or may claim any estate right trust or interest unto or out of the said several villages pieces or parcels of ground before mentioned or any of them or any part or parcel thereof by from or under or in trust for them or any or either of them shall and will from time to time and at all times at and upon the reasonable request and at the proper costs and charges of the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their heirs executors and administrators make do acknowledge execute perform and perfect and furnish and cause and procure to be made done acknowledged executed performed perfected and furnished all and every such further and other lawful and reasonable act and deeds and conveyances and releases and assurances in the law whatsoever for the further better and more perfect and absolute conveying granting and assuring the said premises before mentioned and by these presents granted or intended so to be unto and for the use and behoof of the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their heirs executors or administrators as by the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their heirs executors or administrators or their or either or any counsel learned in the law shall reasonably be advised or required provided always and this Indenture further witnesseth and it is hereby expressly provided and declared that it shall not be in the power of the said Nowrojee Jamsetjee, Muncherjee Jamsetjee and Dossabhoy Jamsetjee their heirs executors or administrators or any or either of them or any other person or persons deriving right from any or either of them to the said revenues or any part thereof to increase the present rate of assessment leviable and payable upon and from the said villages and pieces of

ground before mentioned or either or of any part thereof and it is also provided and declared that notwithstanding the execution of these presents the Coorumbes shall have hold and retain the right of cultivation of their several possessions as at this present time possessed by them and shall have hold and retain all other privileges possessed by them so as they are or may be entitled to possess and enjoy to and from the constitution of the said Island of Bombay as fully and effectually to all intents and purposes as if these presents had not been made. And it is further provided and declared that in the event of the land assessment being at any further time increased by the authority of the said United Company or their successors or by the Honourable the Directors of the said United Company or others having proper and effectual authority in that behalf or in case any other modification shall be introduced into the existing revenue system of the said Island such alteration shall extend to and have operation in the said villages or pieces of ground before mentioned in the same manner and as fully in all respects as if these presents had never been made or granted. In witness whereof the said Honourable the Governor in Council at Bombay aforesaid for and on behalf of the United Company hath caused the common seal of the said United Company to be set and affixed the day and year herein above written.

Signed sealed and delivered where no stamps are used or procurable in the presence of (Sd.) MATHEW de CRUZ, (Sd.) SOONDER MOROJEE.	}	(Sd.) JOHN BAX, Secretary to Government.
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## APPENDIX E.

This Indenture made the 19th day of December 1885 Between The Secretary of State for India in Council of the one part and Khan Bahadoor Jamsetjee Dhunjibhoy Wadia of Bombay, Parsee Inhabitant of the other part Whereas the Government of Bombay in consideration of the exceptional services rendered by the said Khan Bahadoor Jamsetjee Dhunjibhoy Wadia during his long and useful official career extending over a period of more than 40 years have agreed to grant to the said Khan Bahadoor Jamsetjee Dhunjibhoy Wadia the pieces of land hereinafter described Now this Indenture Witnesseth that in consideration of the premises he the said Secretary of State doth hereby grant unto the said Khan Bahadoor Jamsetjee Dhunjibhoy Wadia his heirs and assigns Firstly all those two pieces of ground situate at Dharavi Bombay containing altogether by admeasurement Sixteen Acres or thereabouts divided from one another by a strip of land formerly used for the purposes of the Great Indian Peninsula Railway and now reserved for a road the larger of which said pieces of land is bounded on or towards the North by the Dharavi Road on or towards the South-West by the said strip of land reserved for a road and on the East by the property of private individuals and the smaller of which said pieces of land is bounded on the North-East by the said strip of land reserved for a road and on the South-West by the property of private individuals and which said two pieces of land are more particularly delineated in the map or plan hereto annexed and marked A and are therein coloured pink Secondly all that piece of ground or swamp and ground covered by sea-water situate at Dharavi containing by admeasurement twenty-eight Acres or thereabouts and bounded as follows that is to say on or towards the South

by the said Dharavi Road and on or towards the North-East and West sides thereof by swamp ground and ground covered by sea-water and which said piece of land secondly described is more particularly delineated in the said map or plan marked A and is therein coloured blue and thirdly all that piece of ground or marsh ground situate at Sion Bombay containing by admeasurement two hundred and sixty-three Acres or thereabouts and bounded as follows that is to say on or towards the North and East by a Channel or Creek on or towards the South partly by a salt-pan called Sallamati and partly by unoccupied land belonging to private individuals partly by ground belonging to Cursetjee Nusserwanjee Cama and partly by Duncan Causeway leading from Sion to Coorla and which said piece of ground thirdly described is particularly delineated in the map or plan hereto annexed and marked B and therein coloured red and which said premises firstly secondly and thirdly described are situate in the Registration sub-district of Mandvee But save nevertheless and except out of this present grant the water-course or the free-running of or passage for storm and monsoon water in or upon or through the larger of the two pieces of land hereinbefore firstly described from the southernmost point thereof to the sluice-gates at the North-East corner thereof by the Dharavi Road as shown on the said plan marked A and also except the water-courses or the free-running of or passages for water in upon through or alongside of the said piece of ground hereinbefore thirdly described to and from the salt-pans and land or ground in the neighbourhood of or adjoining the said piece of ground hereinbefore thirdly described To hold the said premises except as aforesaid unto and to the use of the said Khan Bahadoor Jamssetjee Dhunjibhoj Wadia his heirs and assigns rent free in perpetuity.

but subject to the payment of all taxes rates assessments duties and charges leviable or chargeable in respect of the said premises or anything for the time being thereon And the said Secretary of State doth hereby for himself his successors and assigns covenant with the said Khan Bahadoor Jamsetjee Dhunjibhoy Wadia his heirs and assigns that notwithstanding anything by the said Secretary of State done or knowingly suffered the said Secretary of State now hath power to grant the said premises unto and to the use of the said Khan Bahadoor Jamsetjee Dhunjibhoy Wadia his heirs and assigns in manner aforesaid free from incumbrances and the said Khan Bahadoor Jamsetjee Dhunjibhoy Wadia doth hereby for himself his heirs executors administrators and assigns covenant with the said Secretary of State his successors and assigns that he the said Khan Bahadoor Jamsetjee Dhunjibhoy Wadia his heirs executors administrators and assigns will not at any time interfere with the water-courses or the free running of or passages for storm or monsoon water in or upon or through the larger of the two pieces of land hereinbefore firstly described from the southernmost point thereof to the sluice-gates at the North-East corner thereof by the Dharavi Road ~~and will not at any time interfere~~ with the supply of water to the salt-pans in the neighbourhood of the premises thirdly described or the water-courses or the free running of or passages for water in upon through or alongside the said premises to and from the salt-pans and land or ground in the neighbourhood thereof In Witness whereof the Right Honourable the Governor of Bombay in Council for and on behalf of the Secretary of State for India in Council hath caused one of the Secretaries to the Government of Bombay to set his hand and affix the seal of the said Government hereto and the said Khan

# INTRODUCTION.

Bahadoor Jamsetjee Dhunjibhoy Wadia hath hereunto set his hand and seal the day and year first hereinbefore written.

Signed sealed and delivered by  
John Nugent, Esq., one of the  
Secretaries to the Government  
of Bombay in the presence of  
A. D. ARIA,  
Assistant Superintendent, Re-  
venue Department, Secretariat.

(Sd.) J. NUGENT,  
Acting Chief Secretary  
to Government.

Signed sealed and delivered  
by the said Khan Bahadoor  
Jamsetji Dhunjibhoy Wadia  
in the presence of  
F. A. LITTLE,  
Solicitor to Government,  
Bombay.

(Sd.) JAMSETJEE DHUN-  
JEEBHOY WADIA.

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## INTRODUCTION.

cxli

### APPENDIX F.

THIS INDENTURE made the       day of       19  
BETWEEN THE SECRETARY OF STATE FOR INDIA  
IN COUNCIL hereinafter called the Lessor of the one part  
and  
hereinafter called the Lessee of the other part WHEREAS  
by Agreement dated the       day of       19  
and made between the Lessor of the one part and the  
Lessee of the other part the Lessee became entitled on  
the performance of certain stipulations in the said Agree-  
ment contained to a Lease of the piece of land and pre-  
mises hereinafter particularly described in manner here-  
inafter mentioned.

AND WHEREAS the buildings by the said Agree-  
ment agreed to be erected have been duly erected and  
covered in conformably to the stipulations therein con-  
tained and the same hath been certified to by the Archi-  
tectural Executive Engineer and Surveyor to the Gov-  
ernment of Bombay in manner required by the said  
Agreement NOW THIS INDENTURE WITNESSETH  
that in consideration of the premises and of the rent here-  
by reserved and of the covenants and agreements on the  
part of the Lessee his heirs executors administrators and  
assigns hereinafter contained he the said Lessor doth  
hereby demise unto the said Lessee his heirs executors  
administrators and assigns ALL THAT piece of land  
situate at       within the Island of Bombay con-  
taining by admeasurement       square yards or there-  
abouts and bounded as follows that is to say on or  
towards the North by       on or  
towards the South by       on or  
towards the East by       and on  
or towards the West by  
which said piece of land is now in the occupa-



tion of the said Lessee and is numbered under Collector's Old No.      Collector's New No.      Old Survey No.      and New Survey No.      in the books of the Collector of Bombay and is more particularly delineated and described in the plan thereof annexed to these presents and therein bounded by a red line Together with the buildings and premises now erected and built thereon and all rights easements and appurtenances thereto belonging Except And Reserving unto the said Lessor his successors and assigns all mines and minerals stones sand gravel clay and earth in and under the said premises or any part thereof.

TO HAVE AND TO HOLD the premises hereinbefore expressed to be hereby demised unto the said Lessee his heirs executors administrators and assigns for the term of      years from the      day of      19      Yielding And Paying therefor yearly and every year during the said term unto the said Lessor his successors and assigns at the office of the Collector of Bombay or as he or they shall be required on the part of the said Lessor his successors or assigns the rent or sum of Rs.      being at the rate of      for every square yard of the land hereby demised the said rent to be payable and paid on the first day of      in each year clear of all and any deductions whatsoever The first payment of rent calculated at the rate aforesaid for the period ending the 1st day of      next to be made on the 1st day of      next and also yielding and paying unto the said Lessor his successors or assigns in the event of and immediately upon the said term being determined by re-entry under the proviso hereinafter contained a proportionate part of the said rent for the fraction of the current year upto the day of such re-entry.

## INTRODUCTION.

cxliii

And the said Lessee doth hereby for himself his heirs executors administrators and assigns covenant with the said Lessor his successors and assigns that he the said Lessee his heirs executors administrators or assigns will during the term hereby granted pay unto the said Lessor his successors and assigns the said yearly rent on the days and in manner hereinbefore appointed for payment thereof clear of all deductions AND ALSO will during the said term hereby granted pay all existing and future taxes rates assessments and out-goings of every description for the time being payable either by landlord or tenant in respect of the said premises. And will maintain and keep in repair the drains sewers and gutters leading from the said buildings and premises in accordance with the Bombay Municipal Acts for the time being in force without requiring any notice in that behalf from the said Lessor his successors or assigns or any other person or persons whomsoever.

AND ALSO will throughout the said term hereby granted at his or their own expense when need shall require or whether required so to do by the Lessor his successors or assigns or not well and substantially repair support pave cleanse and keep in good and substantial repair (including all usual and necessary internal and external painting colour and whitewashing) to the satisfaction of the Lessor his successors or assigns or his or their Surveyor the said premises and buildings and the walls and fences thereunto belonging and also all fixtures and additions thereto.

AND ALSO will permit the Lessor his successors and assigns or his or their Surveyor and workmen or others employed by them twice in every year during the said term hereby granted in the day-time after twenty-four hours previous notice to enter into and upon the

said buildings and premises to view the condition thereof and of all defects and wants of repair there found to give or leave notice in writing on or at the said premises for the Lessee his heirs executors administrators or assigns to repair the same within six calendar months next after such notice within which said time the said Lessee his heirs executors administrators or assigns will repair and make good to the satisfaction of the Lessor his successors or assigns or his or their Surveyor all such defects and wants of repair as aforesaid.

AND ALSO will not cut or maim any of the principal walls of the buildings for the time being or any part of the piece of ground hereby demised or make or permit to be made any alterations in or additions to the said buildings or in the architectural decoration thereof without the previous consent in writing of the Lessor his successors or assigns for that purpose first had and obtained AND ALSO will not without the previous consent of the Lessor his successors or assigns use or permit the said premises or any part thereof to be used as a public house or liquor shop or for any trade business or other purpose whatsoever which shall in the judgment of the said Lessor his successors or assigns be or grow to the annoyance of the owners or occupiers of any neighbouring premises AND will not use the buildings on the said premises or any part thereof respectively as a warehouse unless specially certified by the Government Surveyor to be adapted for that purpose and constructed of adequate strength.

AND ALSO will throughout the said term keep all and every the building or buildings already erected or which may be erected on the said land insured in the joint names of the Lessor his successors and assigns and of the Lessee his heirs executors administrators or assigns

## INTRODUCTION.

cxlv

against loss or damage by fire in a sum equivalent to the cost of the building excluding foundations and plinth in some respectable Insurance Office to be approved of by the Lessor his successors or assigns or his or their Agent for the time being and when thereunto required will produce the current year's receipt for such insurance to him or them AND ALSO will lay out all the monies which shall be received by virtue of any such insurance in rebuilding or repairing the premises destroyed or damaged And whenever during the said term the said buildings or any part thereof respectively shall be burnt down or destroyed or damaged by fire or hurricane or otherwise the said Lessee his executors administrators or assigns will reinstate the same under the direction and to the approval of the Lessor his successors or assigns or his or their Surveyor or other officer appointed in that behalf and will continue to pay the rent hereby reserved as if no such accident by fire hurricane or otherwise had happened.

AND ALSO will at the expiration or sooner determination of the said term quietly deliver up to the said Lessor his successors or assigns the said premises and all the erections which shall have been built thereon during the said term together with all fixtures windows doors shutters fastenings water-closets cisterns partitions fixed presses shelves pipes pumps rails poles locks and keys and all other fixtures which during the last seven years of the said term shall have been fastened to the said buildings and premises or any part thereof in such good and substantial repair and condition and so maintained paved emptied and cleansed as aforesaid and in all respects in such state and condition as shall be consistent with the due performance of the several covenants hereinbefore contained.

AND ALSO if the said Lessee his heirs executors administrators or assigns shall sell assign or part with the said premises or any part thereof for the then residue of the said term he the said Lessee his heirs executors administrators or assigns will from time to time within twenty-one days after every such assignment or assurance shall have been made deliver at his or their own expense notice of such assignment or assurance and if required a copy of such assignment or assurance to the said Lessor his successors or assigns such delivery to be made to the Collector of Bombay or to such officer or person in Bombay on behalf of the said Lessor his successors or assigns as he or they shall from time to time require.

PROVIDED ALWAYS and it is hereby agreed and declared by and between the said parties to these presents that if the said Lessee his heirs executors administrators or assigns shall have duly performed the covenants on the part of the Lessee hereinbefore contained and shall at the end of the said term hereby granted be desirous of receiving a new Lease of the premises hereby demised and of such desire shall give notice in writing to the Lessor his successors or assigns before the expiration of the term hereby granted the said Lessor his successors or assigns shall and will at the cost and expense in every respect of the said Lessee his heirs executors administrators and assigns and upon his or their executing a counterpart thereof grant to the said Lessee his heirs executors administrators or assigns a new Lease of the said premises for a further term of                    years and with all the same covenants and provisos and stipulations but not including this covenant for renewal as are in these presents contained or expressed excepting that on such renewal such annual rent shall be reserved whether the same may be

## cxlvi

AND IT IS HEREBY FURTHER AGREED that if and whenever any part of the rent hereby reserved shall be in arrear for the space of thirty days whether the same shall have been legally demanded or not it shall be lawful for the said Lessor his successors or assigns to enter upon the said premises and distrain for the same together with all expenses of such distress.

And the said Lessor doth hereby for himself his successors and assigns covenant with the said Lessee his heirs executors administrators and assigns that he or they paying the rent hereby reserved and performing the covenants hereinbefore on his or their part contained shall and may peaceably possess and enjoy the said demised premises for the said term hereby granted without any interruption or disturbance from or by the said Lessor his successors or assigns or any other person or persons lawfully claiming by from or under him them

or any one of them. IN WITNESS whereof the Right Honourable the Governor of Bombay in Council for and on behalf of the said Secretary of State for India in Council hath caused the Collector of Bombay to set his hand and affix his official seal to one part to these presents and the said Lessee hath to another part of these presents set his hand and seal the day and year first hereinbefore written.

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# INTRODUCTION.

cxlix.

## APPENDIX G.

THIS INDENTURE made the                      day of  
    One Thousand Nine Hundred and  
 BETWEEN THE SECRETARY OF STATE FOR INDIA  
 IN COUNCIL hereinafter called the Lessor of the one part  
 and  
 of Bombay                      inhabitant hereinafter called the  
 Lessee of the other part WITNESSETH that in  
 consideration of the sum of Rupees                      paid by the  
 said Lessee to the said Lessor and in consideration  
 of the rent hereby reserved and of the covenants  
 and agreements on the part of the Lessee his Heirs  
 Executors Administrators and Assigns hereinafter  
 contained he the said Lessor doth hereby demise  
 unto the said Lessee his Heirs Executors Administrators  
 and Assigns ALL that piece of land situate at  
 within the Island of Bombay containing by admeasure-  
 ment                      square yards or thereabouts and bound-  
 ed as follows that is to say on or towards the North by  
    on or towards the South by                      on or  
 towards the East by                      and on or  
 towards the West by                      which said premises  
 are now in the occupation of                      and  
 are numbered in the books of the Collector of Land Revenue  
 Bombay under Old No.                      New No.                      Old Survey  
 No.                      New Survey No.                      and are more particularly  
 delineated and described in the Plan thereof signed by  
 the Collector of Land Revenue Bombay annexed to these  
 presents and therein coloured                      TOGETHER  
 with all rights easements and appurtenances thereto be-  
 longing EXCEPT AND RESERVING unto the said Lessor  
 his Successors and Assigns all mines and minerals  
 in and under the said premises or any part thereof  
 TO HAVE AND TO HOLD the premises hereinbefore



expressed to be hereby demised unto the said Lessee his Heirs Executors Administrators and Assigns for the term of 50 years from the                      day of                      YIELD-  
ING AND PAYING THEREFOR yearly and every year during the said term unto the said Lessor his Successors and Assigns at the Office of the Collector of Land Revenue Bombay or as he or they shall be required on the part of the said Lessor his Successors or Assigns the rent or sum of Rupees                      being at the rate of                      for every square yard of the land hereby demised the said rent to be payable and paid on the                      day of                      in each year clear of all and any deductions whatsoever the first payment of rent at the rate aforesaid for the period ending on the                      day of                      next to be made on the                      day of                      next AND ALSO yielding and paying unto the said Lessor his Successors or Assigns in the event of and immediately upon the said term being determined by re-entry under the proviso hereinafter contained a proportionate part of the said rent for the fraction of the current year up to the day of such re-entry AND the Lessee doth hereby for himself his Heirs Executors Administrators and Assigns covenant with the said Lessor his Successors and Assigns that he the said Lessee his Heirs Executors Administrators or Assigns will during the term hereby granted pay unto the said Lessor his Successors and Assigns the said yearly rent on the days and in manner hereinbefore appointed for payment thereof clear of all deductions AND ALSO will during the said term hereby granted pay existing and future taxes rates assessments and outgoings of every description for the time being payable either by landlord or tenant in respect of the said premises and anything for the time being thereon AND will not make any excavation upon any part of the land nor

remove any stone sand gravel clay or brick earth therefrom except for the purpose of forming the foundations of buildings or of sinking wells. AND also will at the expiration or sooner determination of the said term quietly deliver up to the said Lessor his Successors or Assigns the said premises and all erections and buildings then standing or being thereon AND ALSO if the said Lessee his Heirs Executors Administrators or Assigns shall sell assign or part with the said premises or any part thereof for the then residue of the said term he the said Lessee his Heirs Executors Administrators or Assigns will from time to time within 21 days after every such assignment or assurance shall have been made delivered at his or their own expense notice of such assignment or assurance and if required a copy of such assignment or assurance to the said Lessor his Successors or Assigns such delivery to be made to the Collector of Land Revenue Bombay or to such officer or person in Bombay on behalf of the said Lessor his Successors or Assigns as he or they shall from time to time require PROVIDED ALWAYS and it is hereby agreed and declared by and between the said parties to these presents that if the said Lessee his Heirs Executors Administrators or Assigns shall have duly performed the covenants on the part of the Lessee hereinbefore contained and shall at the end of the said term hereby granted be desirous of receiving a new lease of the premises hereby demised and of such desire shall give notice in writing to the Lessor his Successors or Assigns before the expiration of the term hereby granted the said Lessor his Successors or Assigns shall and will at the cost and expense in every respect of the said Lessee his Heirs Executors Administrators and Assigns and upon his or their executing a counterpart thereof grant to the said Lessee his Heirs Executors Administrators or Assigns a new

Lease of the said premises for a further term of fifty years and with all the same covenants provisos and stipulations (but not including this covenant for renewal) as are in these presents contained or expressed excepting that on such renewal such annual rent shall be reserved whether the same be decreased or increased as the said Lessor his Successors or Assigns shall determine having regard to the situation of the land and the value of the land in the vicinity at the time of such renewal PROVIDED ALSO and it is hereby further agreed that if and whenever any part of the rent hereby reserved shall be in arrear for the space of 21 days whether the same shall have been legally demanded or not it shall be lawful for the said Lessor his Successors or Assigns to enter upon the said premises and distrain for the same together with all expenses of such distress PROVIDED ALSO that if the said rent hereby reserved shall be in arrear for the space of 30 days whether the same shall have been legally demanded or not or if and whenever there shall be a breach of any of the covenants by the said Lessee his Heirs Successors Executors Administrators or Assigns hereinbefore contained the said Lessor his Successors or Assigns may re-enter upon any part of the said premises in the name of the whole and thereupon the said term of 50 years and the right to a renewal thereof shall absolutely cease and determine AND the said Lessor doth hereby for himself his Successors and Assigns covenant with the said Lessee his Heirs Executors Administrators and Assigns that he or they paying the rent hereby reserved and performing the covenants hereinbefore on his or their part contained shall and may peaceably enjoy the said demised premises for the said term hereby granted without any interruption or disturbance from or by the said Lessor his Successors or Assigns or any other person.

## INTRODUCTION.

cliii

or persons lawfully claiming by from or under him them or any of them. IN WITNESS WHEREOF the Right Honourable the Governor of Bombay in Council for and on behalf of the said Secretary of State for India in Council hath caused the Collector of Bombay to set his hand and affix his official seal to one part of these presents and the said Lessee hath to another part of these presents set his hand and seal the day and year first hereinbefore written.

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INTRODUCTION.

APPENDIX H.

This is to certify that I  
 Collector of the Honourable Company's rent and re-  
 venue of Bombay, in consequence of an order of Gov-  
 ernment dated \_\_\_\_\_ have granted to  
 \_\_\_\_\_ a spot of  
 vacant ground situated at \_\_\_\_\_ contain-  
 ing \_\_\_\_\_ square yards, the said  
 \_\_\_\_\_ having agreed to pay rent at  
 the rate of 11 reas per square yard amounting to  
 Rs. \_\_\_\_\_ Qrs. \_\_\_\_\_ reas \_\_\_\_\_ annually to the Honour-  
 able Company and further has engaged to pay for the  
 aforesaid spot of ground such additional rent as Gov-  
 ernment may from time to time think proper to fix  
 and that it shall be optional with Government to resume  
 the same at their pleasure.

(Sd)

Collector.

Bombay Collector's Office,

Date \_\_\_\_\_

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## INTRODUCTION.

civ

### APPENDIX I.

This is to certify that  
has the permission of Government to occupy the space  
in the New Town denoted by No.                      in the  
plan of the Revenue Survey containing  
square yards, upon payment into this office annual-  
ly in the month of January at the rate of 11 reas the  
square yard, the said ground to be at any time resum-  
able by Government for public purposes six months'  
notice being previously given and a just valuation of all  
buildings or other improvements thereon being paid the  
owner the amount of which a Committee appointed by  
Government is in such case to determine.

(Sd)

Collector.

Bombay Collector's Office,

Date

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## APPENDIX J.

THIS INDENTURE made the                      day  
of                      191    between the SÉCRETARY OF  
STATE FOR INDIA IN COUNCIL (hereinafter  
referred to as "the Secretary of State" which  
expression shall unless repugnant to the context include  
the said Secretary of State for India in Council  
and his successors and assigns ) of the one part and

of Bombay                      Inhabitant (hereinafter referred to as  
"the occupier" which expression shall unless repugnant to  
the context include the said

and his heirs, executors, administrators and  
legal representatives and assigns ) of the other part  
WHEREAS the Secretary of State is beneficial owner of  
the land and property described in the Schedule here-  
under written and delineated on the plan hereto annexed  
and shown in red colour therein AND WHEREAS the  
occupier holds of the Secretary of State or is tenant or  
in occupation of the said land and property described in  
the Schedule hereunder written and shown on the plan  
hereto annexed under the terms of a Sanad dated the  
day of                      18                      AND WHEREAS

the Secretary of State has agreed with the occupier that  
henceforth and from the date of these presents the said  
land and property described in the Schedule hereunder  
written shall no longer be held of him or tenanted or  
occupied by the occupier under the terms of the said  
Sanad but shall be held or occupied by the occupier as  
land and property of the Quit and Ground Rent tenure  
in the Island of Bombay NOW THIS INDENTURE  
WITNESSETH that in pursuance of the said agreement  
and in consideration of the sum of Rupees  
paid by the occupier into the office of the Collector of

# INTRODUCTION.

clvii

Bombay on the                      day of                      19  
 (the receipt whereof is hereby admitted) and in consideration of the Quit and Ground Rent hereafter referred to and henceforth to be paid by the occupier the Secretary of State and the occupier do hereby agree that from the date of these presents the said land and property described in the Schedule hereunder written and shown on the plan hereto annexed is and shall subject to the provisions of the Bombay City Land Revenue Act II of 1876 as amended by Bombay Act III of 1900 or other law relating to the Land Revenue Administration of the City of Bombay for the time being in force be held of the Secretary of State by the occupier as land of and subject to the terms and conditions of the Quit and Ground Rent tenure in the Island of Bombay and that the terms of the said Sanad shall no longer affect or bind the said land and property AND the occupier doth covenant with the Secretary of State that the occupier will henceforth from and after the date of these presents yearly and every year on the                      day of                      pay clear of all deductions to the Secretary of State at the office of the Collector of Land Revenue Bombay or at any other place for the time being duly appointed for the payment thereof the Quit or Ground Rent of Rupees

in respect of the land and property described in the said Schedule hereunder written and also will pay all existing and future taxes rates assessments and out-goings of every description for the time being payable either by landlord or tenant in respect of the same premises and anything for the time being thereon IN WITNESS whereof the Honourable the Governor of Bombay in Council hath caused the Collector of Bombay to set his hand hereto on behalf of the said Secretary of State for India in Council and the said



Occupier hath hereto set his hand the day and year first before written.

Signed and delivered by

the Collector of Bombay in  
the presence of

Signed by

in the presence of

*SCHEDULE.*

All that piece or parcel of land (situate lying or being at without the Fort of Bombay in the Registration Sub-District of Bombay) containing by ad-measurement square yards,

assessed by the Collector of Land Revenue under Collec-  
tor's Old No. Collector's New No.

Old Survey No. and New Survey No.

and bounded as follows:—

on the North by

on the South by

on the East by

and on the West by

and formerly held under a Sanad dated

*PLAN.*

**elix**

**AN AGREEMENT** made this                      day of  
19     **BETWEEN THE SECRETARY OF STATE**  
**FOR INDIA IN COUNCIL** of the one part and

WHEREBY the said Secretary of State for India in Council agrees to demise to the said tenant and the said tenant agrees to take all that piece of Government ground situate at \_\_\_\_\_ in the Registration District of Bombay containing \_\_\_\_\_ square yards lately occupied by \_\_\_\_\_ and now occupied by \_\_\_\_\_ and bounded on \_\_\_\_\_

the North by  
on the South by  
on the East by  
and on the West by  
and more particularly delineated in the map or plan drawn  
on the back of this agreement from the day of 19  
so long as both parties shall please upon a strict tenancy-  
at-will and not otherwise yielding and paying therefor  
during the said tenancy the monthly rent of Rupees  
on the day of each month at  
the Office of the Collector of Bombay the first of such  
payments to be made on the day of 19

PROVIDED ALWAYS and it is hereby expressly declared and agreed--

(a) That no right to build upon the said piece of Government ground is hereby granted to the said tenant and that no building shall be erected upon the said piece

# INTRODUCTION.

of Government ground by the said tenant without the consent of the Collector of Bombay on behalf of the said Secretary of State for India in Council for that purpose first had and obtained in writing.

(b) That the tenancy under this agreement may be terminated as follows, namely, by the said tenant by one month's notice such time to terminate at the end of any month of the tenancy and to be given to the Collector of Bombay and by the Secretary of State for India in Council by one month's notice such notice to be given to the said tenant or left at his residence by the Collector of Bombay and to terminate at any time.

(c) That the said tenant shall on the termination of this tenancy yield and deliver up to the Collector of Bombay on behalf of the Secretary of State for India in Council quiet and peaceable possession of the said piece of ground and every part thereof together with all erections and buildings then standing or being thereon.

(d) That the said tenant shall not be entitled to receive from the Secretary of State for India in Council any compensation for any improvement he may make on or to the land or for any expense he may be put to on the termination of this tenancy in or about vacating the same.

(e) And lastly that the said tenant will not without leave of the Collector of Bombay assign or underlet the said premises or any part thereof.

IN WITNESS whereof the Right Honourable the Governor of Bombay in Council hath caused the Collector of Bombay to set his hand hereto on behalf of the

## INTRODUCTION.

clxi

Secretary of State for India in Council and the said  
Governor hath hereto set his hand the day and year first  
before written.

Signed and delivered by

the Collector of Bombay in  
the presence of

Signed by

in the presence of

## **BOMBAY ACT No. II OF 1876.**

*(The assent of the Governor-General of India to this Act was first published by the Governor of Bombay on the 26th October 1876.)*

An Act to amend the Law relating to the Land-revenue Administration of the City of Bombay.

Whereas it is expedient to amend the law relating to the assessment and collection of the land-revenue, to provide against encroachments upon public property, to ensure the preservation of survey-boundary-marks, and otherwise to improve the existing land-revenue administration in the City of Bombay; It is enacted as follows :—

Preamble.

The Bombay Revenue Officers' and Land Revenue Code Bill (now Act V of 1879) as originally drafted included a chapter applicable to the City of Bombay. But as the land revenue administration of the Presidency Town differed widely from that of the Mofussil it was afterwards thought more satisfactory to embody the necessary provisions for the former in a separate Bill.

The earliest legislation for the purpose of administering the land revenue in Bombay was Regulation No. XIX of 1827 which was repealed by the present Act. But such of the provisions of this Regulation as related to the land revenue administration have been incorporated in this Act. The only portion which is new is that which refers to the Survey of 1865 to 1872 and to the maintenance of the survey boundary marks, the object being to preserve and utilize the very complete survey of the Island which has been effected at great expense.

2 THE BOMBAY CITY LAND-REVENUE ACT, 1876.

The Act of 1876 has been amended by Act III of 1900. The amendment principally relates to the levy of certain fees in respect of notices demanding payment of arrears of revenue and to the removal of encroachments on Government lands.

*Part I.—Preliminary.*

Short title.

1. This Act may be cited as "The Bombay City Land-revenue Act, 1876."

It extends only to the City of Bombay.

City of Bombay has been defined by section 3 (10) of the General Clauses Act (1 of 1904) to mean the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature.

From clause 11 of the Letters Patent of the Bombay High Court (24 and 25 Vict., c. 104) and from Rule 364 of the High Court Rules it appears that the limits of the ordinary original civil jurisdiction of the Bombay High Court extends only to "the Island of Bombay, Cross alias Gibbet and Butcher's Islands."

The northern boundary of the Island of Bombay is fixed by a line running through the centre points of the Duncan (Sion) Causeway on the Kurla side and through the centre points of the B. B. and C. I. Railway and the Lady Jamsetji Bridges on the Bandra side. (G. R. No. 9888, dated 6th December 1905).

Regulation  
XIX of 1827  
repealed.

2. So much of Regulation XIX of 1827 as has not been already repealed is hereby repealed.

All references made in any Act or Regulation to any part of the said Regulation XIX of 1827 hereby repealed shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, powers conferred, orders issued, and notifications published under the said Regulation, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any part of the said Regulation XIX of 1827 hereby repealed shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

3. In this Act, unless there be something repugnant in the subject or context—

Interpreta-  
tion clause.

(1) "Collector" or "Collector of Bombay" means the Collector of Land-revenue, Customs and Opium, Bombay, or such officer as Government conformably to law may appoint in this behalf ;

(2) the words "land-revenue" signify any sum of money legally claimable by Government from any person on account of any land, or interest in, or right exercisable over, land held by, or vested in, him, under whatever designation such sum may be payable ;

(3) the words "survey-boundary-mark" mean, primarily, any iron or other mark set up by the officers who conducted the Bombay City-survey hereinafter described, and include any such new mark that may hereafter be set up by the Collector or under his orders, according to the provisions of this Act;

(4) "superior holder" means the person having the highest title under Government to any land in the City of Bombay.

The present clause (1) was substituted by section 1 (a) of the City of Bombay Land Revenue Amendment Act, 1900 (Bombay Act III of 1900). The Collector of Bombay is no longer the Collector of Customs and Opium, the joint office having been abolished by Government Resolution No. 6106, dated 25th June 1906, Revenue Department.

**Land Revenue :—**The expression "Land" is not defined in the Act. As defined in the Land Revenue Code (Act V of 1879) land "includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth and also shares in or charges on, the revenue or rent of villages, or other defined portion of territory." [Section 3 (4) of the Code].

Section 3 (3) as originally drafted was as follows :—

"The words 'Survey Boundary Mark' mean primarily any iron mark set up by the officers who conducted the Bombay City Survey hereinafter described, or any other object, natural or artificial, employed or specified by the said officers in order to designate the



boundary of any division of land ; and include any such new mark or object that may hereafter be set up, employed, or specified by the Collector, or under his orders, according to the provisions of this Act."

This was however altered by the Select Committee who thought it fair to compel people to maintain those boundary marks only that had been erected by Government orders, but not to compel men to re-erect walls that might have tumbled down through want of care on the part of somebody else. The object of the modification was to limit the powers reserved to the Collector in part V of the Act to such marks as were originally set up by himself or by the officers who conducted the City Survey.

The Survey boundary marks set up by the officers of the Bombay City Survey consisted of cast-iron marks of three sorts as follows :—

	Height.	Weight.
1st	30 inches	30 lbs.
2nd	18 „	18 „
3rd	15 „	9 „

These boundary marks were fixed at the corners of properties. Nos. 1 and 2 were used when the property was adjacent to a made road—the first was fixed at the corner, and two of the 2nd about 12 feet off from the first, in the direction of the outlines of the property and were denoted "pointers" for that purpose. But when the property was at a distance from a road and there was no chance of carts running against them, Nos. 2 and 3 were used for the same purpose.\*

**Superior Holder :—**The expression "Superior holder" is used in this Act in the place of "Occupant" used in Regulation XIX of 1827. In the draft Bill which

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\*Lieut.-Col. Laughton's report No. 420 of 23rd November 1872.

ultimately became the present Act, the words "owner or occupant" were used throughout. The meaning as well as the propriety of either of these two words was discussed at some length in Council.\* Ultimately at the suggestion of the Advocate-General the expression "Superior holder" was used in the Act in the place of "owner or occupant" used in the Bill and an interpretation clause was inserted. The Superior holder was defined to signify "the person having the highest title under Government to the land in respect of which land revenue is payable."

This definition of the "Superior holder" was altered to the present one by Section 1 of Act III of 1900. The present definition has a wider significance than the old one and brings within its compass all land-holders whether they pay land revenue in respect of their holdings or not and implies that Government have some title to *all* lands in Bombay.

Under the Land Revenue Code the superior holder "signifies a holder entitled to receive from other holders rent or land revenue on account of lands held by them, whether he be accountable or not for the same and any part thereof, to the Government."

He need not be the highest holder but must have a right to receive rent or assessment from another holder.

In Bombay the Superior holder must be the person claiming immediately under Government and not through any other person.

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\* Vide Proceedings in Council dated 4th January 1876—Bombay Government Gazette of 3rd February 1876, Part V, pages 142, 150-151.

*Part II.—The Collector of Bombay and  
his Subordinates.*

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Collector of Bombay subject to the Governor in Council.

Chief control  
in revenue  
matters.

5. The Collector of Bombay shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on him by this Act, or by any other law for the time being in force, and, so far as is consistent therewith, all such other powers or duties as may from time to time be prescribed by the Governor in Council.

Appointment  
and duties  
of the Collec-  
tor of Bom-  
bay.

6. The Collector shall have as many assistants and such other establishment subordinate to him as the Governor in Council, under the general control of the Governor-General <sup>[a]</sup> of India <sup>[a]</sup> in Council, may from time to time sanction, and their appointment shall be made in such manner as the Governor in Council may direct.

His assist-  
ants and  
establishment  
how appoint-  
ed;

The duties of the said assistants and other subordinates of the Collector shall be such as the Collector, subject to the orders of Government, may from time to time prescribe.

their duties.

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[a] The words "of India" were substituted for the words "in India" by the Repealing and Amending Act No. 16 of 1895.

and powers.

Subject to the previous sanction of Government, the Collector may delegate any of his powers under this Act, or under any law which the Governor in Council is able to repeal or alter, to any of his assistants or other subordinates, and may at any time cancel such delegation.

The Collector of Bombay is authorized to delegate to his Assistant (or Deputy) such of his powers under this Act as he may from time to time think advisable. [G. R. No. 2157 dated 5th April 1887].

Punishment  
for miscon-  
duct.

7. The Collector shall have power, subject to such rules as may from time to time be prescribed by Government, to fine, reduce, suspend or dismiss any of his assistants or other subordinates.

No rules have been framed and published by Government under this section ; but the general rules \* relating to the conduct of Government servants apply to the City of Bombay.

### *Part III.—Assessment and Collection of Land-revenue.*

Collector to  
fix and levy  
land-revenue.

8. It shall be the duty of the Collector, subject to the orders of Government, to fix and to levy the assessment for land-revenue.

When there is no right on the part of the superior holder in limitation of the right of Government to assess, the assessment shall be fixed at the discretion of the Collector subject to the control of Government.

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\* Vide "The Government Servants' Conduct Rules, 1904" corrected upto January 1912.

When there is a right on the part of the superior holder in limitation of the right of Government, in consequence of a specific limit to assessment having been established and preserved, the assessment shall not exceed such specific limit.

**The Right of the Crown to Assess Lands is Inherent :—**

“ From time immemorial the ruling power throughout India has been entitled to a share of the produce of every acre of land, and this share is the so-called land revenue.” \* Liability to pay this land revenue or assessment to Government is the fundamental principle which constitutes the basis of the revenue policy of Government. The theory prevailing in British India is that generally speaking the State is the owner of all land and that its holders are all occupants.†

“ Strict proof must be given of the right set up in derogation of the inherent right of the Sovereign to assess the land at his discretion, whether the change be one of absolute ownership, revenue free, or of fixity of tenure at a customary rent and no presumption is admissible against the Crown from mere lapse of time. The mere fact that the lands were once waste lands reclaimed from the sea which the inhabitants were invited to cultivate, or that a very small rent had been paid for many years, does not mean that Government forfeit their right to enhance the assessment in respect of such land. The expenses incurred as well as the benefits conferred by Government increase with the progress and development of the community and it is not only legal but politic and

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\* Sir John Strachey's *India*, page 75.

† Vide Judgment of Chandavarkar J. in *Secretary of State vs. Wasudeo*, I. L. R. XXXI Bom., p. 456.

just to increase assessments in accordance with the increased value of the land so far as that increase is caused not by the exertions of the holders of the improvements made by them but by the growth of general prosperity under the influences of good administration." \*

"When a person acquires a land from the Crown he acquires it subject to the paramount right of the Crown to assess it for the purpose of revenue from time to time according to the exigencies of administration unless by the grant the Crown has exempted the land from liability."†

The original section as it was drafted was as follows :—  
"The Collector shall have authority, subject to the orders of Government, to fix the assessment for land revenue at his discretion on all lands not wholly exempt from land revenue, and the amount due according to such assessment shall be levied by the Collector on all such lands :

Provided that in the case of lands partially exempt from land revenue, or the liability of which to payment of land revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights ; but payment for any period of years continuously hitherto of an unvarying amount of land revenue shall not of itself be held to constitute a title to exemption from liability to a higher assessment, except in any case in which Government may have at any time expressly admitted a right of exemption on such ground."

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\* Scott J. in *Shapurji Jivanji vs. The Collector of Bombay*, I. L. R. IX. Bom., p. 483.

† Chandavarkar J. in *Vinayak Atmaram vs. The Collector of Bombay*, I. L. R. XXVI, Bom. 339.

The Select Committee slightly modified this section by the addition of the words "or in regard to which there is no limitation of the right of Government to assess" after the words "not wholly exempt from land revenue" in the first paragraph of the section.

But this section created the utmost consternation among the landholders who regarded it as unfortunate that it should ever have been contemplated at all.

At the discussion in Council \* the Advocate-General pointed out that the alarm might probably arise from the words "at his discretion" which went very far beyond the Regulation which provided that the land revenue of the Presidency of Bombay should be assessed according to the principles laid down to guide him and then some 50 years later it was proposed that his discretion should be substituted. "There seems to be good ground" he said "for alarm. After a lapse of great many years the Collector's discretion should not be allowed to override rights which parties may have acquired by the continuous payment of a fixed rate of tax. We take away that and we say that the payment of a number of years shall not of itself constitute a title to exemption, and that certainly is going against the practice of the Courts."

The section was thereafter changed to its present form.

**No Classification of Lands :—**Unlike the lands in the Mofussil the lands in Bombay over which the assessment can be levied are not, for the purpose of assessment, classified as (a) lands appropriated for purpose of agriculture ; (b) lands appropriated for any purpose from which any other profit or advantage than that ordinarily

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\* Vide Proceedings dated 4th January 1876. Bombay Government Gazette, dated 3rd February 1876, Part V, p. 149.

acquired by agriculture is derived ; and (c) land appropriated for building sites, but are assessed all alike on the basis of four per cent. assessment on the market value of such lands. The right to 'hold' carries with it the right to make any improvements on the land and the holder is not restricted from changing the nature of the usure.

**Mines and Minerals :—**Except in the case of lands held under leases from Government (and when such reservation has been specifically made) the right of Government to mines and minerals in the lands in Bombay is not reserved as in the Mofussil, where such right is expressly reserved under section 69 of the Land Revenue Code.

**Subject to the orders of Government :—**The 'orders' and 'control' of Government refer to general orders and general control. A notice of assessment by the Collector cannot be invalid if he has not obtained the previous orders of Government before fixing and levying the assessment. This principle was accepted in *Motibai vs. The Collector of Bombay*. \*

**To Fix :—**The right to fix and levy assessment includes also the right to enhance assessment, and it is within the power of the Collector to increase the existing assessment at his discretion.

**Discretion of the Collector :—**The Collector has *prima facie* an absolute discretion in levying assessment under this section but that discretion can be controlled or modified by the orders of Government and he cannot legally make any assessment contrary to orders passed in exercise of Government's power of control.

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\* Revenue Suit No. 24 of 1899.



The sanction and approval of Government to a particular assessment would indicate that Government considered it the proper assessment and the Collector could not thereafter without previous orders of Government legally levy any different assessment; Government could however at any time validate an unauthorized assessment by subsequent ratification.

**Established and preserved :—**The intention is that the Collector's discretion, exercisable subject to the control of Government, is to be otherwise unfettered only in cases where there is absolutely no right of any kind on the part of a superior holder in limitation of the right of Government to assess.

A holder whose right in limitation of the right of Government to assess, has not been established either by suit or by admission on the part of Government might nevertheless have a right which he might be able to establish in the Courts, as against all rights of Government to assess. Such a claim might possibly be lost by lapse of time and the word "preserved" as well as "established" seems to have been for this reason used in the concluding part of the section.

But apparently it cannot be the intention to bar all unestablished claims against discretionary assessment whether time-barred or not, though in the latter part of the section it is required that a claim to a specific limit as against Government should be one continuously recognized.

The words "no right" would apparently mean no right that is capable of being established in accordance with the law. The section while it only requires the Collector to recognise and be bound by rights that are established does not do away with any rights capable of being established.

The assessment cannot be fixed retrospectively:—The Collector of Bombay has no power to give retrospective effect to the increase of assessment under this section. (G. R. No. 892, dated 3rd February 1886) \*

Lands under different tenures in which specific limit to assessment is established:—Pension and Tax † land is land in respect of which there is a right on the part of the superior holder in limitation of the right of Government to assess, in consequence of a specific limit to assessment having been established. ‡

Quit and ground‡ rent land:—There has been no judicial decision as to whether there is a specific limit to the enhancement on these lands. But the use of the term *Quit rent* itself would imply a specific limit to the assessment, which coupled with the length of time during which the assessment has continued unchanged would lead to the defeat of any attempt now to increase it.

Toka and Foras-Toka lands:—It has been decided by the High Court in the case of *Shapurji Jivaji vs. the Collector of Bombay* § that these lands have had no specific limit to their assessment established and that their assessment may be enhanced. The assessment on Toka and Foras-Toka lands was revised under G. R. No. 4233, dated 14th August 1879 and guaranteed for 50 years.

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\* Vide also *Shapurji Jivanji vs. The Collector of Bombay*, I. L. R. IX. Bom. p. 483.

† The assessment on Pension and Tax land to any amount and that on Quit and Ground Rent and Foras lands to a limit of Rs. 10 per annum can be redeemed at 30 years' purchase (vide notes to sec. 10).

‡ *Bai Motibai vs. The Collector of Bombay*, Revenue Suit No. 24 of 1899.

§ I. L. R. IX. Bom. p. 483.

Foras \* :—Land mentioned in plan No. 1 referred to in the Foras Act VI † of 1851 is, under section 2 thereof, held subject only to the rents payable in respect thereof at the time of the passing of the Act.

Land Newly Assessed :—There has been no specific limit to assessment in the case of these lands except so far as may have been created at the time of their assessment. The general revision of assessment on these lands was made in the year 1899 and has been guaranteed for 30 years in some cases and 50 years in others.

6. The settlement of the assessment of each portion of land to the land-revenue shall be made with the superior holder of the same.

Settlement  
of assessment  
with whom  
to be made.

If the said superior holder be absent and have left no known authorized agent in Bombay, or if there be a dispute as to who is entitled to be considered the superior holder of the land, the settlement may be made with the person actually in possession of the land; and any assessment so fixed shall be binding upon the rightful superior holder of the land.

Any payment made by the person in accordance with the provisions of this Act shall be deemed to have been made on behalf of the superior holder.

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\* Vide note † on p. 14.

† Vide Appendix B to the Introduction p. cxxii.

[a] In any case wherein the superior holder or the person in possession cannot be readily ascertained, the Collector shall give notice calling on all persons claiming the right of a superior holder in or over the said land or a right to the possession thereof to intimate such claim to the Collector at the Collector's office.

[a] If no person asserts such right by intimation to the Collector at the Collector's office within twenty-one days from the date of such notice, the Collector may assess such land at his discretion, and the superior holder and every person then or thereafter in possession of the land shall be liable accordingly.

**Settlement of assessment and on whom it is binding :—**The real import of this section lies in the word "superior holder" and not in the word "settlement." The settlement is made under section 8 and section 9 points out the person to whose knowledge the settlement made under the previous section must be brought before it can be legally operative. The object of the section appears to be to prevent the Collector from making the settlement binding on the land without in the first instance communicating his order fixing the assessment to the person claiming or owning the land.

Section 9 is rather obscurely worded, but the words "the settlement shall be made with the superior holder" which occur in it, read by the light of the context, signify no more than this that the Collector shall fix the assessment by bringing it to the notice of the person

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[a] These paragraphs were added by section 2 of the City of Bombay Land Revenue Amendment Act III of 1900.

claiming or owning the land and therefore liable to pay it. Section 8 arms the Collector with the discretionary power of fixing the assessment. When he fixes it in the exercise of that power he makes a settlement of the land revenue; but then, to make the settlement binding on the land it must be brought to the knowledge of the person claiming or owning the land, for it is he who has primarily to pay it. Therefore section 9 provides that the Collector shall make the settlement with the superior holder if he can be found; that is, he must give him notice of it so as to make the settlement binding on the land, and if he cannot be found, with the person in possession.\*

**Settlement may be one-sided without any reference to the superior holder :—**Section 8 provides the method by which the determination of the assessment is to be arrived at, namely, it is to be fixed at the discretion of the Collector, if there is no right in limitation. The discretion of the Collector must be reasonably, honestly and judiciously exercised, but there is nothing in the Act which lays it down specifically that the Collector of *obligation* must ask for or hear the views of the party chargeable before fixing the assessment. He may do so if he chooses or he may think it desirable to follow other modes of ascertaining an equitable rate of assessment. Any objection as to the Collector's abusing the discretion in fixing the rate is met by such discretion being made subject to the control of Government.

In *Vinayek Atmaram vs. The Collector of Bombay* where the plaintiff-appellant contended that the enhancement of assessment was illegal on the ground that there had been no "settlement" with him in as much as he had received no prior notice from the Collector of his intention to enhance the assessment Jenkins, C. J. said:

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\* *Vinayek Atmaram vs. The Collector of Bombay*, I. L. R. XXVI. Bom. 339.

"From the 8th section of the Act we find that it is the duty of the Collector to fix the assessment for land revenue and the 14th section provides that the Collector's decision upon any question arising out of the provisions of sections 8 to 13 shall unless superseded by the Revenue Judge be binding on all persons whom it may concern and shall be acted on accordingly. These two sections appear to me to negative the idea that the expression "settlement of assessment" has the force for which the plaintiff contends; I think it means no more than that when the settlement is fixed the fact shall be communicated to the superior holder. I should have been glad had I seen my way to holding that prior notice was necessary; for some of the revenue cases which have recently come before us.....have led me to regret the absence of some such provision as that for which the plaintiff contends. The hardship arises in this way; the person affected by the increased assessment is conclusively bound by it if he does not file a suit contesting the Collector's decision within 30 days from the date when it was made known to him and on the other hand it has been stated before us that when such a suit is commenced Government decline to enter on any negotiations. The result is that for the purpose of upsetting a Collector's decision, on which he has never been heard, he has no option but at once to commence and afterwards to carry through his suit against Government. It is not difficult to see that this may drive a party into litigation that might have been avoided had an opportunity of negotiation and explanation been afforded and though in the view I take of the Act the Government is within its rights when it so proceeds still I think it may be worthy of consideration whether some rule should not be passed which would be a safeguard against possibility of the mischief to which I have referred. Legislation for the purpose would be unnecessary, a rule or direction would suffice."\*

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\* I. L. R. XXVI. Bom. p. 339.

In order to obviate any hardship such as that referred to in the concluding remarks of the Chief Justice in this case, the following standing order was passed :—

“ It should be made a standing order in the Collector's office that when it is proposed to enhance assessment a preliminary notice shall be given to the persons concerned, to enable them to make any representation they may desire before the enhancement is finally determined. The notice should fix a date after which no representation would be received and it should be intimated that the Collector will not ordinarily receive representations in such cases except in writing or hear advocates on behalf of the persons concerned. (G. R. No. 533, dated 26th January 1903).

For form of notice referred to in para 4 of the section vide Appendix No. 1.

**Abatement of Land Revenue when lands are acquired :—**Land revenue is abated when any land is acquired either by Government under the Land Acquisition Act I of 1894 or by the Municipality for street improvement under Section 296 (1) of the City of Bombay Municipal Act ( Bombay Act III of 1888).

“ The Collector of Bombay is authorized to deduct from the rent-roll rents for lands taken up by the Municipality from the owners for road improvements. A report in each case is not necessary but the Collector should fully satisfy himself that the land has been taken and he should then correct the rent-roll ” (Government Resolution No. 1924, dated 31st March 1875).

**Compensation for loss of rent by such abatement :—**“ Remission of land revenue when made in the case of land taken up for a public purpose should be valued at 25 times the annual amount of land revenue remitted.” (Government Resolution, Financial Department, No. 4169, dated 12th September 1893).

This Government Resolution is applicable to the case of lands held under a permanent tenure. In the case of lands where the assessment is liable to revision the value of such remission is calculated on the basis of the potential increase of assessment.

"Compensation should be charged for the abatement of revenue on land taken up by the Municipality of Bombay otherwise than under the Land Acquisition Act." (Government Resolution No. 4367, dated 21st June 1890).

"As regards the general question whether capitalized rental can be fairly claimed in accordance with the Government Resolution No. 4367 dated 21st June 1890 in the case of transfers prior to 1890 no such claim can be brought against the Municipality in cases in which the former holder of the land claimed and obtained a reduction of his rent prior to 1890. On the other hand if the owner of the land taken for the road did not claim a reduction of the rental the fact of the transfer could not come to the Collector's knowledge and the transaction remained incomplete. In such a case if after the passing of Government Resolution No. 4367 dated 21st June 1890 the former holder claims reduction in rental on account of land taken into a road the Collector would be correct in calling on the Municipality to pay the capitalized rental." (Government Resolution No. 7919, dated 23rd November 1891.)

Where the interest of Government has been more or less permanently alienated, the Collector of Bombay has been authorized to dispose of cases of sales of land to the Municipality required for the purposes of set-back, without reference to Government. (Government Resolution No. 5962, dated 23rd June 1911.)



10. The superior holder of land, or, in his absence, the person actually in possession, shall be liable in person and property for the land revenue due upon the holding.

Liability for  
land revenue.

[a] Arrears of land revenue due on account of land shall, on failure by the persons interested therein to pay the same within the date specified in that behalf in a notice demanding payment posted on or near the land, be a paramount charge on the land and on every part thereof.

The notice under this Section is the same as the notice under Section 13.

Under the next Section the claim of Government for arrears of land revenue has precedence, but it does not become a paramount charge on the land on which it is due until the date of expiry of the notice, demanding payment of such arrears of land revenue, posted on or near the land.

11. The claim of Government to any moneys recoverable under the provisions of this Act shall have precedence over any other debt, demand or claim whatsoever in respect of mortgage, judgment, decree, execution, attachment or otherwise howsoever, against any land, or the superior holder thereof.

Claims of  
Government  
to have pre-  
cedence.

The Sheriff of Bombay is bound to send to the Collector of Bombay special notice whenever landed property in Bombay is sold by the order of the High Court and the

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[a] Added by Section 3 of the City of Bombay Land Revenue Amendment Act III of 1900.

22 THE BOMBAY CITY LAND-REVENUE ACT, 1876.

claim of Government for any arrears, etc., is communicated by the Collector to the Commissioner of the High Court (G. R., Judicial Department, No. 1317, dated 24th February 1880 and G. R., Judicial Department, No. 2024, dated 20th March 1880).

Collector to  
direct to  
whom and  
when and  
where re-  
venue to be  
paid.

12. Subject to such orders as may be passed by the Governor in Council, the Collector shall from time to time give orders and make known the same by notice to be served on all superior holders of land paying revenue, or, in their absence, persons in possession, regulating the persons, places and times to whom and within which the revenue payable in respect of any land shall be paid.

[a] Provided that when the assessment leviable in any case under the provisions of this Act does not exceed one rupee per annum, it shall be lawful for the Collector, subject to the orders of Government, to levy, in lieu of such assessment, a single lump sum of such amount as the Collector, subject as aforesaid, deems to be a fair equivalent of the assessment but not in any case exceeding 30 times the assessment.

For form of notice under this section, vide Appendix No. 2.

The wording of this section is clear enough to indicate that the object of the notice is to let the superior holder or the person in possession know to whom,

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[a] This proviso has been added by Section 2 of Act I of 1910.

where \* and on what date land revenue is to be paid. Any misstatement of the description of the property in the notice does not create a right in favour of the person on whom such notice is served by reason of such misstatement. †

**Receipt-bills :—**On payment of land revenue a receipt-bill is issued by the Collector's office.

For form of receipt-bill, vide Appendix No. 3.

**Receipt-bills are not declarations of tenure :—**The object of such bills is not to define and announce titles but merely to get in Government assessment. †

**Payment can be made in advance :—**"It is quite immaterial to Government that the land revenue demands in the Bombay Collectorate should be paid in advance. When the amount to be paid is small, say, under Rs. 10, the payer may be allowed the option of paying for 5 or 10 years in advance. Payment may also be accepted from any person who may make it on account of the person liable for it." (G. R. No. 3359 dated 9th June 1881.)

**Redemption of Assessment :—**Under the proviso to this section the Collector is authorized to compel the superior holders, or, in their absence, persons in possession, to redeem the assessment on lands held under the Pension and Tax, Quit and Ground Rent and Foras

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\* The old system of collecting the Government land revenue by sending round to each tenant or holder, peons or clerks to receive rents was abolished and that of requiring them to pay their rents at the Collector's office introduced by G. R. No. 2139, dated 23rd April 1880.

† Merwanji M. Cama and another vs. The Secretary of State, XIV Bom. Law Rep. p. 654.

tenures, if the said assessment is less than one rupee per annum on payment of a sum equal to 30 times the assessment. (G. R. No. 6379, dated 10th July 1910.)

But if the *said* assessment exceeds one rupee per annum, the superior holders or the persons in possession have the option to redeem the assessment on payment of a sum equal to 30 times the assessment provided that in the case of the holdings under the Quit and Ground Rent and Foras tenures, the assessment does not exceed ten Rupees per annum. (G. R. No. 4169 dated 12th September 1898; G. R. No. 3233, dated 27th March 1908; G. R. No. 4403, dated 1st May 1908.)

For form of notice under the proviso to this section, vide Appendix No. 4.

**Revenue Years :—**The land revenue is leviable on or at any time after the first day of the Revenue year for which it is due. The Revenue year for lands under different tenures commences on different dates as follows :—

Pension and Tax—10th June.

Quit and Ground Rent—varies in the case of different lands :—1st May, 10th June, 26th June.

Foras—9th October.

Toka—1st November.

Sanadi—varies in the case of different lands :— 1st May, 1st November, 1st January.

Tenancy-at-will—as may be reserved in the agreement.

Leasehold—as may be reserved in the lease.

Land Newly Assessed—varies in the case of different lands :— 1st January, 1st April, 1st May, 1st September.

Land revenue in Bombay is not payable in instalment as in the Mofussil.

13. [a] If any land-revenue is not paid at, or within, the time when it becomes payable. the Collector may, on or after the day following that on which the arrears accrue due, cause a notice of demand to be served on the superior holder or on the person in possession, or on both.

Notice of demand may be served after arrears due.

[a] Every person to whom any such notice is issued shall be chargeable in respect thereof with a fee not exceeding two rupees calculated according to the rates specified on this behalf in the table in Schedule A :

Fees chargeable in respect of notice of demand.

[a] Provided that in no case shall the fee chargeable for any notice exceed the amount of the land-revenue in respect of which the said notice is issued.

If the superior holder or person in possession as the case may be, shall, for the space of twenty days after service of written notice of demand of payment, fail to discharge the revenue due, it shall be lawful for the Collector to levy the same by attachment and sale of the land on which the revenue is due, or of any other property, moveable or immoveable, of the defaulter.

On default of payment, defaulter's property may be attached and sold.

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[a] The words "If any land revenue is not paid at, or within, the time when it becomes payable, and" which occurred in the beginning of section 13 were substituted by the first 3 paragraphs of the present section by section 4 of Bombay Act III of 1900.

**Sales held.**      **how**      Such sales shall be by public auction, and shall not take place until at least fifteen days after notice thereof shall have been published in the Bombay Government Gazette.

**Defaulters may be arrested and confined.**      If the sale of the defaulter's property shall not produce satisfaction of the demand, it shall be lawful for the Collector to cause him to be apprehended and confined in the civil jail under the rules in force at the Presidency for the confinement of debtors, for which purpose a certificate of demand under the Collector's signature sent with the defaulter shall be the sheriff's sufficient warrant, equally with the usual legal process in ordinary cases of arrest in execution of judgment for debt :

Provided, however, that such imprisonment shall cease at any time upon payment of the sum due, and that it shall in no case exceed one day for each rupee of the said sum.

Section 13 as it stood prior to its amendment by Act III of 1900 although it required the issue of notices to revenue defaulters before any steps for recovery could be taken made no provision for the payment of any fee for such notice. Persons from whom revenue was due lost nothing by delaying payment. It was found that in consequence, so many as 7,000 notices had to be issued annually. This entailed on the Collector and his establishment considerable labour. To avoid this labour and induce greater punctuality in payment, it was proposed to make a small fee chargeable in respect of all notices issued under this section. \*

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\* Statement of Objects and Reasons. Vide Bom. Govt. Gaz., dated 8th January 1900, Pt. V, pp. 6-7.

**Notice of Demand :—**For form of Notice of Demand under this section vide Appendix No. 5.

It is obligatory to serve a written notice of demand on the person actually in possession where the owner of the property is absent without leaving any known authorised agent in Bombay and that it would not be legal to issue a warrant of attachment unless the addressee has failed to discharge the revenue due within 20 days after the service of the notice. \*

If the superior holder can be found but has no property moveable other than the holding and if this holding has been leased in perpetuity to a tenant, the proper course for the Collector to take is to post a notice under Section 10 and then serve notices under Section 13 upon both the superior holder and the person actually in possession.

On the expiration of the period referred to in the Section the Collector can sell the land itself in the manner provided by the Section or the property moveable or immoveable of either the superior holder or the person actually in possession or both of them.

The levy of fees for all notices issued, whether they are actually served or not, should be the practice. A notice of demand should be held to be issued when it has been signed and dated. (G. R. 1194, dated 16th February 1898).

**Attachment and Sale :—**The Section provides for the attachment and sale of the property and not a sale only ; " to attach " means " to take possession of " or " seize " and the attachment whether of the land on which the revenue is due or of any other moveable or immoveable property belonging to the defaulter has to be effected

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\* For mode of service of notice, vide Section 36 of this Act.

before a sale is made, as by the seizure the person, from whom the revenue is due, has distinct notice that the Collector is using the power which Section 13 gives him; the attachment has to be placed on the property and the sale cannot take place until at least 15 days after the notice thereof has been published in the Bombay Government Gazette.

Attachment of moneys due to the defaulter from any person can be made by a prohibitory order issued by the Collector.

For form of such prohibitory order, vide Appendix No. 6.

**Right to rents due to superior holders from their tenants :—**It is not possible to attach rents due to superior holders from their tenants. The last seven words in Section 13 para 4 refer only to property tangible or corporeal of the defaulter in his possession. A right to rent due and unpaid is a chose in action i.e. it is merely a right to recover such rent by action. Physical possession cannot of course be taken of such a right.

For form of Warrant of Attachment, vide Appendix No. 7.

**Sale must be by Public Auction :—**If the land is to be sold by the Collector it must be sold by public auction after at least 15 days notice thereof shall have been published in the Bombay Government Gazette. It is not open to the Collector to accept a private offer for the land.

**Sale under this Section is good against all interest :—**  
Sale held under this Section is good against all interests in the land including those of a mortgagee.



Having regard to the provisions of sections 11 and 13, a purchaser at an auction sale held under section 13 would purchase the land free from any mortgages upon the land; were this not so, the right of sale which the Collector has would be worthless where the land is mortgaged to the full extent of its value. If a sale be regularly held under section 13 of the Act, the mortgagee would have no right of action against either the purchaser or against Government.

In the case of a sale of immoveable property belonging to the defaulter other than that for which land revenue is due such sale will not be free from encumbrances created by the holder. [Vide G. R. 6391 dated 9th September 1890.]

**Surplus receipts :—**The surplus receipts after the sale of the defaulter's moveable or immoveable property over and above the arrears of land revenue including the notice-fees and the cost of attachment and sale are to be made over to the defaulter or to his assignee by the Collector.

For conditions of sale of immoveable property of a defaulter, vide Appendix No. 8.

**Properties exempted from attachment :—**All such property as is exempted by the Code of Civil Procedure from attachment or sale in execution of a decree is exempt from distraint or sale under this section. ( Vide proviso to section 60 (1) of the Civil Procedure Code, Act V of 1908.)

For the rules in force at the Presidency for the confinement of debtors, vide Sections 55 to 59 of the Civil Procedure Code, Act V of 1908.

Government are not in favour of arrest of defaulters except in extreme cases. (G. R. No. 1743, dated 1st March 1883).

Recovery of arrears from persons residing out of Bombay :—If the defaulter resides out of the revenue jurisdiction of the Collector of Bombay but not outside British India the amount of arrears due can be recovered under the Revenue Recovery Act I of 1890 (Government of India), through the Collector of the district in which the defaulter resides. If the defaulter resides in any district within the Presidency of Bombay to which the Land Revenue Code applies a mere statement of account certified by the Collector of Bombay is also sufficient for the Collector of the district in which the defaulter resides to recover the amount of arrears as if the demand arose in his own district.

Recovery outside British India :—"Revenue cannot be realized outside British India by coercive process." (G. R. No. 3302 dated 20th April 1894).

Collector's decision to be acted on in first instance; but may be stayed on security being furnished.

14. The Collector's decision upon any question arising out of the provisions of sections 8 to 13 <sup>[a]</sup> shall, unless superseded by the Revenue Judge, be binding upon all persons whom it may concern, and shall be acted upon accordingly; but the Collector's decision shall be stayed on any such person giving security to the satisfaction of the Collector that he will, within thirty days from the date when such decision was made known to him, institute a suit before the Revenue Judge for the purpose of contesting the legality of the Collector's

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[a] The words "of this Act" were repealed by the General Clauses Act (Bombay) III of 1886, Schedule B. This Schedule has been printed as an appendix to the General Clauses Act (Bombay) I of 1904.

decision, and will fulfil the decree that may be passed against him, and will pay all costs and interests which may be so decreed; or that, if he fail to file such suit as above specified, he will, when required, pay the amount demanded.

Security may be either in deposit or a Security bond. The Security should be sufficient to cover (i) payment of the Government dues including notice fees and warrant fees and (ii) payment of all costs of the proceedings before the Revenue Judge.

It will be noticed that apart from the Security the Collector has under Section 18 of the Act power to enforce payment of any decree passed by the Revenue Judge against a defaulter.

15. All compulsory process against a defaulter shall cease on his paying or tendering the amount demanded of him under protest to the officer executing such process; or

Compulsory process to cease on payment under protest,

on his instituting a suit before the Revenue Judge to contest the legality of the demand, and furnishing security satisfactory to the Collector or Revenue Judge, that he will, pending the decision of the said suit, neither quit the jurisdiction, nor remove nor transfer any of his property therein, without providing to the satisfaction of the Collector or of the Revenue Judge for the execution of the decree.

or on instituting suit and furnishing security.

Fees in respect of warrant for attachment and sale of defaulter's property. Additional fee.

16. Fees shall be payable according to the table in the Schedule A <sup>[a]</sup> on all warrants issued under the provisions of section 13 <sup>[a]</sup> for the attachment and sale of the property of defaulters, by the person in respect of whose property such warrants are issued, and an additional fee of four annas per diem shall be paid in like manner in respect of each peon employed, whenever the property distrained is placed in charge of any peon or peons.

#### *Part IV.—The Revenue Judge.*

Revenue Judge.

17. The Senior Magistrate of Police shall be Revenue Judge.

Duties and powers.

The Revenue Judge shall decide all suits\* brought before him against the Collector, or any person on his establishment, on account of land-revenue, or of acts done in their official capacities by the Collector, or any of his assistants or other subordinates.

The Senior Magistrate of Police is the Chief Presidency Magistrate.

Acts done in official capacity :—It has been laid down in *Tobin vs. The Queen*, 33 L.J.C. p. 204, that where the duty to be performed is imposed by law and not by the

[a] The words "hereunto annexed" which occurred after the words "Schedule A" and the words "of this Act" which occurred after the words "Section 13" were repealed by the General Clauses Act (Bombay) III of 1886, Schedule B. This Schedule has been printed as an Appendix to the General Clauses Act (Bombay) I of 1904.

\* For suits against Government or public officers, vide sections 79 and 80 and Order 27 of the Civil Procedure Code (India Act V of 1908).

will of the party employing the agent, the employer is not liable for the wrong done by the agent in such employment. \*

**Liability of Revenue Officers to be sued :—**In *Spooner vs. Harkisondas*† the Privy Council has held that if Indian Revenue Officers have fallen into a mistake, or without bad faith have been guilty of an excess in executing the duties of their office, the object of the legislature has been that they should not be liable to be sued in a civil action before the Supreme Courts. Liability to be prosecuted criminally stands upon a totally different foundation.

**Notice of Suit :—**Section 80 of the Civil Procedure Code requires that all suits against Government or against a Government officer in respect of any act purporting to be done by such Government officer in his official capacity shall be preceded by a two months' notice in writing to be left at the office of a Secretary to Government or of the officer concerned, the object of such notice being to enable Government or the Government officer concerned to make amends or to settle the claim if so advised, without litigation.

No notice is however necessary when the remedy sought is an injunction.

**Jurisdiction of the Revenue Judge :—**The jurisdiction of the revenue court extends only to the trying and deciding whether the act of the Collector is legal under the provisions of the Act and that it has no power to pronounce an opinion upon or alter the rates fixed by the Collector on lands not specially exempt from taxation or

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\* As per Scott C. J. in *Merwanji vs. The Secretary of State*. XIV Bom. Law Rep. 654.

† 1850 Perry's Oriental cases.

in respect of which no limitation of the right of Government to assess exists. In the absence of such exemption or limitation the law vests Government with a right to fix its own rights. This view has been very clearly and forcibly expressed by the late Sir Michael Westropp in the Kanara Land case \* [Veykunta Bapuji vs. The Government of Bombay] as follows:—

“Our duty is a simple one, viz. to ascertain whether there is a right on the part of the occupant (the plaintiff) in limitation of the right of Government in consequence of a specific limit to assessment having been established and preserved. If there be such a right, Regulation XVII. of 1827, section 4, clause 2, ..... enacts that the assessment shall not exceed such specific limit. The first clause of the same section enacted that “when there is no right on the part of the occupant in limitation of the right of Government to assess, the assessment shall be fixed at the discretion of the Collector subject to the control of Government.” If there be no such specific limit to the right of Government to assess, it is perfectly clear that the Civil Courts have not any jurisdiction to interfere in the assessment which when discretionary is expressly placed by the clause, ..... in the hands of the Collector subject to the control of Government and thus by an implication which is irresistible excludes the interference of the Courts..... Hence when a petition is presented to Government by a person deeming himself aggrieved by a decision of the Collector as to assessment, Government can deal with the matter as it may please, the discretion of the Collector being subject to that of Government; but a Civil Court can only entertain an action when the legal right or title of the plaintiff to

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\* XII Bombay High Court Reports, Appendix I.

exemption or partial exemption from payment of revenue in consequence of a specific limit to assessment having been established and preserved is in jeopardy..... Having come very clearly to the conclusion that there was not any specific limit to the right of Government to assess.... we think that we should exceed our duty and usurp that which is in the proper province of Government, were we to express any opinion upon the propriety of assessment. That is a question belonging to the region of politics and not within the range of Civil Courts."

The principle laid down in the Kanara land case has been followed in *Shapurji Jivanji vs. The Collector of Bombay*.\*

18. All such suits shall be commenced and the trial thereof shall be conducted according to the provisions of the general law† of civil procedure for the time being in force in a District Court.

Suits before Revenue Judge how conducted.

An appeal shall lie against a decree passed by the Revenue Judge in any such suit to the High Court on its appellate side, and shall follow the same rules as would be applicable under any law for the time being in force to appeals from the decrees of a District Court in original suits tried by it.

Appeals how and to whom to lie.

The decree in any such suit, whether it be that of the Revenue Judge or of the appellate authority, shall, if it be against the Collector, be fulfilled by the Collector.

Decrees how executed.

\* I. L. R. IX. Bom. p. 483. † India Act V of 1908.

If it be against the plaintiff, it may be enforced by the Collector under section 13 as an established revenue-demand :

Provided, however, that execution shall in either case be stayed if an appeal be made, and on the plaintiff's furnishing security similar to that described in section 15 if the appeal be brought by him.

For rules applicable to appeals to the High Court, vide sections 96 to 99 and order 41 of the Civil Procedure Code. \*

An appeal against the decision of the Revenue Judge must be filed within 90 days from the date of the original judgment, vide Art. 156 of the 1st Schedule, Second Division of the Indian Limitation Act. †

For rules applicable to appeals to His Majesty in Council, vide Sections 109 to 112 and Order 45 of the Civil Procedure Code. \*

An appeal to His Majesty in Council must be filed within 6 months from the date of Appeal Court's judgment, vide Art. 179 of the 1st Schedule, Third Division of the Indian Limitation Act. †

For the rules for the Conduct of the Legal Affairs of Government so far as City of Bombay is concerned, vide rules 62 to 81 published in the Bombay Government Gazette, dated 17th March 1910, Part I, pp. 403 to 406.

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\* India Act V of 1908.

† India Act IX of 1908.



*Part V.—The Bombay City-survey and  
Boundary-marks.*

19. The survey made under the authority of Government during the years 1865 to 1872 shall be called "The Bombay City-survey"; and the demarcation of lands then made, and all the records of the said survey, shall be taken as *prima facie* evidence for all proceedings under and for all the purposes of this Act:

Bombay  
City-survey  
recognized.

Provided that the Collector may, on the application of the parties interested in such lands and shall, in pursuance of a decree or order of a competent Court, cause any alteration or correction to be made of any such demarcation of lands, or of any entry in any such record.

The original Section as drafted was to the effect that the records of the Bombay City Survey should be "recognized and acted upon for all the purposes of this Act." The propriety of such recognition was discussed at great length in the Council\* and it was ultimately resolved that the records of that Survey should only be taken as a *prima facie* basis.

The Collector is bound to cause an alteration to be made in pursuance of a decree or order of a competent Court. But in the absence of such a decree or order the Collector may, on his being satisfied by inquiry or otherwise, either correct the record or refer the parties concerned to a Civil Court.

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\* Vide Proceedings of 4th January 1876, Bom. Govt. Gaz., dated 3rd February 1876, Pt. V, pp. 146-7, 151.

Responsibility for maintenance and repair of boundary-marks.

20. Every superior holder of land shall be responsible for the maintenance and good repair of the survey boundary-marks of his holding, and for any expenses, not exceeding five rupees for each mark, reasonably incurred on account of the same by the Collector in cases of alteration or removal.

Collector or subordinates may enter upon lands.

21. It shall be lawful for the Collector, or for any of his assistants or other subordinates in that behalf duly authorized by writing under the hand of the said Collector, to enter upon any lands for the purpose of inspecting the survey-boundary-marks erected thereon, or of altering, renewing or repairing such marks.

This does not empower the Collector to fix new marks where none had been fixed by the officers of the City Survey.

Collector may require superior holders to renew or repair survey marks. Requisition how made.

22. In the event of any survey-boundary-mark being destroyed, defaced, injured or removed, it shall be lawful for the Collector to cause to be served on the superior holder, or in his absence the person in possession of any land of which such mark designates the boundary, a requisition in writing signed by the said Collector, calling on such superior holder or person in possession to renew or repair the said mark, at his own expense, within fifteen days from the date of the service of such requisition.

23. If the said survey-boundary-mark be not renewed or repaired, within the said period, to the Collector's satisfaction, it shall be lawful for the Collector or any of his assistants or other subordinates, or other person duly authorized as hereinbefore mentioned, to enter upon any land to which the said mark appertains, and to renew or repair it; and for each such mark so renewed or repaired it shall be lawful for the Collector to charge each superior holder or person in possession, the boundary of whose land is designated by any such mark, such sum, not exceeding rupees ten in the whole, as he may deem fit.

On default, Collector or assistants may enter and renew or repair. Charge for renewal or repair.

These two Sections have practically remained a dead letter in view of the opinion expressed by Government in Government Resolution No. 7654, dated 30th October 1902, to the following effect:—Government agree with the Collector that a general renewal of boundary marks is unnecessary. Nor does it seem necessary to renew marks, the cost of which can be recovered from landlords under Act II of 1876.

*Part VI.—Government Lands and Foreshore.*

24. All unoccupied lands within the City of Bombay, and every unoccupied portion of the foreshore below the high-water mark, shall be deemed, and are hereby declared to be, the property of Government, subject always to the rights of way and all other rights of the public legally subsisting.

Right of Government to lands and foreshore.

The original section as drafted was as follows:—  
 “All lands within the City of Bombay, and every portion of the foreshore below high-water mark, not shown to be the property of individuals, or of aggregates of persons capable of holding property, and except in so far as any rights of such persons may be established in or over the same, shall be deemed, and are hereby declared to be, the property of Government, subject always to the right of way and all other rights of the public legally subsisting.”

This was altered to its present form by the Select Committee. The alteration so made by them in making it refer only to unoccupied lands and unoccupied portions of the foreshore is important in as much as it would have been otherwise hardly fair to persons already in possession of land and portions of the foreshore.

Unoccupied means not in the juridical possession of any private person.

High water mark is not defined in this Act. It is however defined in the Land Revenue Code. It means “the highest point reached by ordinary spring tides at any season of the year.”

Alluvion : \*—There is no provision in the Act as to the ownership of alluvial lands. The Common Law provides that gradual accretions by the retiral of waters of the sea or a navigable river, known as “alluvion”, belong to the adjoining owner. The retirement of the sea being gradual, the land left thereby would, in the absence of any statutory provision to the contrary, belong to the owners of the adjoining land.†

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\* “Alluvion” is an imperceptible increase and is so gradual that one cannot say how much is added to it at one particular time.

† Hall on the Sea-shore, 2nd Edition, pp. 108-110.

**Right to soil submerged :—**The law applicable is the rule of English law stated in the judgment of the Privy Council in *Felix Lopez vs. Maddan Thakoor and others* \* as follows :—The rule of English law applicable to this case is thus expressed in a work of great authority (Hale, 'De Jure Maris', p. 15). "If a subject hath land adjoining the sea and the violence of the sea swallow it up, but so yet that there be reasonable marks to continue the notice of it or though the marks be defaced, yet if by situation and extent of quantity and boundary on the firm land the same can be known or it be by art or industry regained the subject doth not lose his property. If the marks remain or continue or the extent can reasonably be certain the case is clear." And in another page (17) he writes thus : "But if it be freely left again by the reflux and recess of the sea the owner may have his land as before, for he cannot lose his property of the soil, though it for a time becomes part of the sea within the Admiral's jurisdiction while it so continues." This principle is a principle not merely of English law, not a principle peculiar to any system of Municipal law, but it is a principle founded on universal law and justice. . . . . There is, however, another principle recognized in English law, which is this, that where there is an acquisition of land from the sea or a river by *gradual, slow and imperceptible means*, there, from the supposed necessity of the case and the difficulty of having to determine, year by year, to whom an inch, or a foot, or a yard belongs, the accretion by alluvion is held to belong to the owner of the adjoining land. Their Lordships, however, desire it to be understood that they do not hold that property absorbed by a sea is under all circumstances and after any lapse of time to be recovered by the old owner as it may well be that the property may have been so.

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\* Bengal Law Reports (1870), Vol. V, p. 521.

completely abandoned as to merge again like any other derelict land into the public domain as part of the sea of the State.

**Right to remission of land revenue on land submerged :—**The following opinion of the Government Solicitor was acquiesced in by Government in G. R. No. 529 C. W.—1281 P. W. D., dated 14th July 1882 :—"The question is, what is the effect of the owners of land, which the sea now covers at certain high tides, continuing to pay rents to Government for such lands ?

If they choose to go on paying rent, I see no reason why Government should not receive it. But if they discontinue it, I do not think Government could compel payment to be made to them. The real security for non-payment of rent of land is the land itself; and in cases of the kind now being referred to, the land may be said to have disappeared or to have reverted to the Crown while it is so covered by the sea. But if at any future time, the land should be reclaimed from the sea, Government would no doubt consider the claims of persons to have the land re-granted to them. Of course, if it was clear that Government had continued to receive rents for the lands thus temporarily covered by the sea, it would be bound to return them to the persons who would have been entitled to have them, if the sea had not extended itself over them. But with regard to lands for which no rent was paid to Government, it would in a manner depend on how they had been absorbed by the sea, whether they belong to the Crown or not. If the sea had gradually, but in an imperceptible manner, encroached on the land, the former owners would most probably have lost their right to it."

**Streets, tanks, &c., vested in the Municipality :—**"All streets within the City, being or which at any time become public streets, and pavements, stones and other materials

thereof, shall vest in the Corporation and be under the control of the Commissioner." (Section 289 (1) of the City of Bombay Municipal Act III of 1888).

"All existing public drinking fountains, tanks, reservoirs, cisterns, pumps, wells, ducts and works for the supply of water for the gratuitous use of the inhabitants of the city shall vest in the Corporation and be under the control of the Commissioner." (Section 269 (1) of the City of Bombay Municipal Act III of 1888.)

**Foreshore vested in the Port Trust :—**From Worli Fort to Mahim Causeway—bounded on the landward side by the line of high water mark, except at Mahim where the boundary extends on the east to the Causeway, and on the south to the Custom Chowkey. (Schedule C to the Bombay Port Trust Act I of 1873).

**Foreshore vested\* in the Improvement Trust :—**

*Colaba.*—The foreshore below high water mark extending southwards from a point opposite the foot of the south approach to the Wodehouse Bridge along the west side of Colaba to the extreme limit of Colaba Point.

*Walkeshwar and Mahalaxmi.*—The foreshore of the Island below high water mark extending from Worli Fort to Malabar Point. (Schedule E to the City of Bombay Improvement Trust Act IV of 1898.)

25. It shall be lawful for the Collector, with the sanction of Government, to dispose of any Government lands or foreshore, in such manner and subject to such conditions as he may deem fit.

Such lands and foreshore how disposed of.

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\* Vide section 61 of Act IV of 1898.

The disposal of Government lands or foreshore is, as a general rule, made by the grant of leases. The chief points in leases are: (1) Occupancy price; (2) Ground rent; (3) Term of the lease; (4) Renewal of the lease; (5) Treatment of the improvements; (6) Architectural conditions; (7) Right to minerals; (8) Condition as to deterioration of the land.

The following recognized principles are generally followed in the granting of leases:—

**Occupancy price :—**“The Collector of Bombay is authorized to introduce generally the system of sale by public auction of the right of occupancy of Government lands for the currency of the lease.” (G. R. No. 10038, dated 8th February 1890.)

“The Governor in Council is pleased to direct that ordinarily the annual rent should be calculated on the full value of the land and no premium should be payable. The Collector however should have discretion, in case in which such a course appears advisable, to take as occupancy price a portion not exceeding one-third of the whole value of the land, and to calculate the annual rent on the remainder only. The Collector should also have discretion to demand the first two years’ rental in advance.” (G. R. No. 10469, dated 18th November 1910).

**Ground rents :—**“In all cases of new or renewed leases in Bombay the full rent on the basis of 4 per cent. on the selling value of land in the locality should be demanded.” (G. R. No. 4451 dated 27th June 1899.)

**Term of the lease :—**In those parts of the City where on general considerations it is considered necessary to enforce architectural conditions leases are made to extend to a term of not less than 99 years. In the more outlying



parts where no conditions in excess of the Municipal building rules are necessary, a 50 years' lease is considered sufficient.

**Renewal of the lease :—**Ninety-nine years' leases are generally non-renewable. Sometimes one renewal at a revised rental is granted. In the case of the 50 years' leases one renewal at revised rent is always granted.

“No renewal should be permitted without a special report to Government, a reference being made by the Collector in the first instance to the Municipal Commissioner as to whether the land is likely to be required for public purposes.” (G. R. No. 5224, dated 19th October 1872.)

**Treatment of improvement :—**In the case of 50 years' leases no stipulations for repairs are usually made and the lessees are not, at the close of the term, prevented from removing their improvements. In the case of 99 years' leases where architectural conditions are enforced the lessees are required to keep the buildings in repairs, insure them, restore them in the event of fire and at the close of the term hand them without compensation in good repair to Government.

**Architectural conditions :—**These are enforced in the 99 years' leases in the case of important sites (e.g. Esplanade, Marine Lines, Chowpaty) where a special style of building is required. In the case of other sites the Municipal building rules are considered sufficient security against the erection of insecure or unsightly tenements.

**Right to minerals :—**“In accordance with the general instructions of the Government of India a clause reserving the full rights of Government in respect of all minerals that may be discovered in the land to be leased should be

inserted in all leases granted in the Island of Bombay," (Government Resolution No. 2273, dated 29th April 1880 Revenue Department.)

"In cases of renewal of leases when the reservation of the rights of Government in respect of minerals cannot be stipulated for without the consent of the lessee and the lessee refuses his assent this condition cannot be insisted upon." (Government Resolution No. 2686, dated 24th May 1880.)

"In the case of building sites on the Bombay Esplanade the part of the clause providing for the reservation of the right to search, etc., should be omitted as security of the public interest exists in the fact that if the existence of valuable minerals was at any time suspected beneath the sites of houses on the Esplanade sold or leased by Government, there is ample space remaining belonging to Government which never can in the nature of things be built over and on which shafts can be sunk when galleries could be run for the purpose of working the minerals. Government in the circumstances are perfectly secure in simply reserving the minerals without including in the case of building sites on the Esplanade a right to search, etc." (Government Resolution No. 6968, dated 1st September 1892.)

Conditions as to deterioration :—"In leases for Government land granted in the Island of Bombay a clause should be inserted to prevent any change in land which if allowed would deteriorate its value." (Government Resolution No. 3834, dated 3rd June 1890.)

Disposal of fish ponds :—The fish ponds are let from year to year. "It is on every account advisable that Government should retain in its hands the power of resuming without any avoidable delay the sites of the Government fish ponds at Bombay. The leases of

these fish ponds should therefore be restricted to single years." (Government Resolution No. 312, dated 24th January 1860.)

**Lands granted to the Municipality:**—"When any lease or grant is applied for by the Municipal Corporation, Bombay, it should be expressly stipulated that the Corporation pay the cost of preparing the lease." (Government Resolution No. 4098, dated 22nd June 1888.)

"On careful consideration of the subject His Excellency the Governor in Council has come to the conclusion that the principle which should be observed in dealing with questions of land required for Municipal purposes is that Government land should only be granted free or at reduced rates to Municipalities in very special and exceptional circumstances, which must be clearly established before any such grant can be authorized. As regards also land needed in order to widen roads or streets, the Governor in Council is unable to perceive any sufficient reason why a prosperous Municipality should be given such land at the expense of the State. If it can afford to pay for the land there is no adequate cause why it should not be called upon to give a fair value. The mere fact that the land is the property of Government gives the Municipality no valid ground for asking that it should be made over free of charge. It must be remembered that the Municipalities receive aid from Government on a general plan towards the maintenance of their schools and dispensaries and Government therefore cannot entertain any claim on the part of Municipalities for any additional grant-in-aid in the shape of gifts of land. (Government Resolution No. 4678, dated 14th July 1888.)

"In view of the high and steadily increasing value of land in Bombay the Municipality should be required to pay for all land of whatever description required by

it. The Municipality must obtain the sanction of Government in every case in which it wishes to acquire Government land wherever situated and for whatever purpose it may be required." (Government Resolutions No. 4306, dated 14th June 1889 and 975, dated 5th February 1891.)

"The decision that Government land should be granted to a Municipality free or at reduced rates only in very special and exceptional circumstances which must be clearly established is intended to apply to those cases only in which land the property of Government is made over to a Municipality permanently and without any specific reservation of power to resume the land from the Municipality. When such a power is reserved the grant is in effect a mere permission to the Municipality to use the land during the pleasure of Government; and in such cases there is no reason why the grant should not be made revenue free.

Ordinarily when the land is required by the Municipality for a purpose from which it expects or intends to make a profit, as for example for building a market from which it will derive income by the levy of rents or stall fees, Government land should be granted to the Municipality on payment of occupancy price and the assessment appropriate to the use to which the land is intended to be put, and remission or reduction of the occupancy price and assessment should be granted, as directed in the orders of 1888, only in very special and exceptional circumstances which must be clearly established.

When the land is to be used for a purpose from which the Municipality does not expect to receive any profit as for example for street improvements, or for building a dispensary or a school-house, the grant will ordinarily

be made revenue free subject to the conditions<sup>[a]</sup> stated in No. 16 (1) of the Rules under Section 214 of the Bombay Land Revenue Code and to any other conditions which may be prescribed either generally or in any particular case, provided that the Municipality agrees to accept all these conditions. If the Municipality refuses to accept the conditions, the grant should be made in accordance with paragraph 3 of this Resolution." (Government Resolution No. 8931, dated 3rd September 1908).

For rules for the disposal of Government lands for the purposes of salt manufacture see Appendix No. 16.

The Collector of Bombay is authorized to execute leases on behalf of the Secretary of State for India in Council. ( Government Resolution No. 10362, dated 27th October 1909. Also Resolution of the Government of India Nos. 713—734, Home Department, Judicial,\* dated 2nd June 1913 and G. R. Judicial Department, No. 5575, dated 4th August 1913, published in the Bom. Govt. Gaz. dated 26th June 1913, Pt. I, pp. 986—1001.)

For forms of leases approved by Government, vide Appendices F and G to the Introduction.

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[a] Viz. (a) That the property shall be liable to be resumed by Government, if used for any purpose other than the specific purpose or purposes for which it is granted or if required by Government for any public purpose; and

(b) that, if the property is at any time resumed by Government under condition (a) the compensation payable therefor shall not exceed the amount (if any) paid to Government for the grant, together with the cost or value at the time of resumption, whichever is less, of any building or other works authorizedly erected or executed on the land by the grantees.

*Part VII.—Encroachments.*

Power to  
abate en-  
croachments  
on Govern-  
ment land  
or foreshore;

26. In the event of any encroachment being made after the passing of this Act on any Government lands or foreshore, it shall be lawful for the Collector or his assistants, or other subordinates, duly authorized in this behalf by writing under his hand, to summarily abate or remove any such encroachment;

[a] and the expense incurred therefor shall be leviable from the person in occupation of the land encroached upon.

or to prohibit  
or require  
abatement of  
such en-  
croachments  
under penal-  
ty of fine;

[a] The Collector or such subordinate may, by notice posted up, on or near any such land and published in the *Bombay Government Gazette*, and in such local newspapers as he deems fit, prohibit or require the abatement or removal of encroachments thereon, and shall fix in such notice a date, which shall be a reasonable time after such notice, on which the same shall take effect.

[a] Every person who makes, causes, permits or continues any encroachment on any land referred to in a notice so posted, shall be liable at the discretion of the Collector to a fine not exceeding twenty-five rupees for every day during any portion of which the encroachment continues after the date fixed for the notice to take effect.

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[a] These paragraphs were added by Sec. V of Act III of 1900.

But it shall be competent to the Collector, with the previous sanction of Government, and if the person making the encroachment so desire, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to fix an assessment not exceeding five times the ordinary annual land-revenue thereupon, and then to cause the said land to be entered in his records in the name of the said person.

or to charge  
for and assess  
land, and  
then enter  
it in name of  
encroacher.

Section 26 as it stood before its amendment by Act III of 1900 gave the Collector power to abate or remove an encroachment on any Government land or on the foreshore but no provision was made for the recovery of any expenses he might thereby incur. Trespassers were encouraged by their freedom from liability to such expenses. The amendment therefore rendered such expenses recoverable from the person in occupation of the land encroached upon.

The Collector can himself abate or remove an encroachment and as the law gives that remedy it does not at first sight seem consistent or necessary to give him in addition the power of fining for the continuance of an encroachment which he himself might summarily remove. However, it may sometimes be inconvenient to the Collector to provide the necessary agency for the removal of an encroachment or he may be unwilling to run the risk of damaging adjoining property.

It is therefore that he is empowered to require by notice, addressed to an individual trespasser in occupation or with due publicity to all persons visiting the

spot, the discontinuance of any such encroachment and to punish by a small fine disobedience to such requisition.\*

For Form of Notice under this section see Appendix 9.

The meaning of the proviso to the section is that the Collector can, if the encroacher so desire, permit him to acquire the property at the price and at the assessment named in the section: that is in effect, that, subject to the limitations imposed by the section the Collector can sell him the land on which the encroachment has been made. †

The action of the Collector under this section seems to have the same effect as a sale of the land encroached upon for its full price. He would have no right to raise the assessment on such land.

Ordinary annual land-revenue is defined in the next section.

Value and  
land-revenue  
how cal-  
culated.

27. For the purposes of the preceding section, the value of land that has been encroached upon shall be fixed by the Collector according to the market value of similar land in the same neighbourhood at the time of such valuation.

And the annual revenue of any such land shall be assessed at the same rate as the land-revenue of similar land in the vicinity.

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\* Vide Statement of Objects and Reasons—Bom. Govt Gaz. dated 8th June 1900, Pt. V, p. 7.

† Jethabhai Rattansi vs. The Collector of Bombay, L. L. B XXV Bom. 752.



28. In the case of any encroachment made within twenty years before the passing of this Act, the Collector may, with the sanction of Government, charge the person who made such encroachment, or who is in occupation of the land so encroached upon, a sum not exceeding double the value of the said land, and fix an assessment not exceeding double the ordinary annual land-revenue thereon, and recover arrears of land-revenue at the same rate from the date when the encroachment was made.

Encroach-  
ments made  
before pass-  
ing of Act  
how dealt  
with.

"In all cases where it is evident that encroachments have been made within 20 years before the passing of the Act, the parties should be called upon to vacate the encroachment or to pay double the value of the said land and double the rent for the same under section 28." (G. R. No. 7179, dated 6th December 1876.)

As in section 26 the action of the Collector under this section will amount to a sale for the full price of the land encroached upon and the assessment fixed under the section will not be liable to enhancement.

29. For the purposes of the last preceding section, the amount by which any holding shall have been shown by the Bombay City-survey to exceed the area of such holding as entered in the Collector's previous records shall *prima facie* be held to be an encroachment.

Encroach-  
ments before  
passing of  
Act defined.

And the value and land-revenue payable in respect of the same shall be calculated according to the market value of similar land in the

Value and  
land-revenue  
payable in re-  
spect thereof  
how calculat-  
ed.

neighbourhood, and the land-revenue chargeable in respect of the excess shall be calculated at the same rate at which the rest of the holding has been assessed.

In case there has been no such holding, the assessment shall be made at such rate as the Collector, with the sanction of Government, may fix.

The market value in this case also, as in section 27, is the value at the time of such valuation.

There is no provision in the Act for the removal of encroachments made prior to 1856. Such encroachments are, in the absence of special circumstances calling for different treatment, assessed under section 8 of the Act on the 4 per cent. basis (i.e. at the rate representing 4 per cent. on the value of the land at the date of such assessment) unless they have remained unassessed for 60 years in which case no assessment is imposed. (G. R. No. 151, dated 10th January 1903 and G. R. No. 1976 dated 12th March 1904).

**Distinction between encroachments charged under Sections 26, 28, and 8 :—**

Section 26.—(Encroachments after 1876) :—The Collector can either summarily remove the encroachment himself or coerce the holder to remove it by the imposition of a fine not exceeding Rs. 25 per day during the continuance of the encroachment. But if the person making the encroachment so desire, the Collector is empowered with the previous sanction of Government to sell the land encroached upon for a sum not exceeding five times the value of similar land in the neighbourhood.

and levy assessment not exceeding five times the ordinary assessment charged on similar land in the neighbourhood. The assessment comes into force from the date of such assessment. No arrears of land-revenue are recovered from the date of encroachment.

Section 28.—(Encroachment made between the years 1856 and 1876):—The Collector cannot remove the encroachment himself, but, if the person encroaching upon it does not vacate it when called upon to do so, can only sell the land encroached upon for a sum not exceeding double the value of similar land in the neighbourhood, and levy an assessment at a rate not exceeding double the rate of assessment on the rest of the holding of which the encroachment forms a part; or if there be no such holding at such rate as the Collector may fix. Arrears of assessment at the rate at which the encroachment is assessed are recovered from the date from which the encroachment was made.

Section 8.—(Encroachments prior to 1856):—No valuation is charged nor are arrears levied from the date of encroachment. The assessment comes into force from the date of such assessment and is not retrospective.

### *Part VIII.—Transfer of Lands, &c.*

30. Whenever the title to any land, house or other immoveable property, subject to the payment of land-revenue to Government, shall be transferred or assigned, the person transferring or assigning the same, and the person to whom the same shall be transferred or assigned, shall respectively cause notice of such transfer or assignment to be given to the Collector.

Notice of transfer of title to lands, etc., to be given to Collector.

Notice when  
to be given.

Such notice shall be given within twenty days after execution of the instrument of transfer or assignment, or after its registration, if it be registered, or after the transfer or assignment is effected, if no instrument is executed.

Transferee  
by death to  
give notice  
within one  
year.

In the event of the death of any person in whose name the title to any property is entered in the Collector's records, the person to whom such title shall be transferred as heir or otherwise shall cause notice thereof to be given to the Collector within one year from such death.

This section as originally drafted contained the words "possession of" in place of "title to." But as it was not the intention of the Act to provide for notice being given to the Collector when the "possession" of a property was transferred, but when the property itself was transferred the word "possession" was replaced by "title" and the words "subject to the payment of land revenue to Government" were introduced at the discussion in Council. \*

All property in Bombay except what is held on a tenancy-at-will, is deemed to be an inheritable and transferable property.

Notice of transfer has to be given both by the vendor and the purchaser but if the original conveyance of the property is produced to the Collector the notice of transfer from the vendor is dispensed with.

In Bombay, landed property being generally valuable, all instruments of transfer are registered with the Sub-Registrar of Assurances and the 20 days' period is

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\* Vide Proceedings in Council dated 5th January 1878. Bom. Govt. Gaz. dated 3rd February, Part V, pp. 153-155.

counted from the date of delivery of the instrument of transfer from the Sub-Registrars' office after registration.

31. The notice shall be in the form either of Schedule B or Schedule C as the case may be, and shall state clearly all the particulars required by the said form. Form of notice,

It shall be accompanied, whenever the Collector shall deem fit so to require, by the instrument of transfer, if any, <sup>[a]</sup> by a plan to be furnished of the land which is the subject of the transfer or assignment, drawn and attested by a person of professional competence in that respect recognized by the Collector, <sup>[a]</sup> and by a certificate that public notice has been given of the transfer or assignment by beat of bataki. Accompaniments.

Section 31 implies the continuance of the system of bataki although the Act contains no express provision similar to section 13 of Regulation XIX of 1827.

Section 2, however, provides that "all rules prescribed under the said Regulation and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been . . . .prescribed . . . . hereunder." The effect of this provision is to keep rule 13 of the Regulation in force as a rule "to be deemed to have been prescribed" under the present Act.

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[a-a] These words were introduced by section 6 of Bom. Act III of 1900.

The following procedure for the beat of bataki is followed :—Any person desirous of giving public notice by beat of bataki of the sale or transfer by inheritance of any house, building, land or other immoveable property has to obtain, on an eight-anna stamp paper a license in duplicate from any of the Presidency Magistrates in the form of Appendix No. 10. The duplicate is produced to the Assessor and Collector of the Bombay Municipality who orders the bataki to be beaten by one of the peons of his department. This officer thereafter certifies to the effect that the bataki was beaten on such and such a day and that no claim, or a claim from so and so, if any, was received.

The fee for the beating of bataki has been fixed by a resolution of the Municipal Corporation No. 729 of 9th April 1908 at Rupees three.

Plan :—A plan of the land to be transferred has to be furnished in every case. (G. R. No. 2727 dated 14th March 1907).

Certificate of bataki is required to be produced when the vendor is not a registered superior holder on the records of the Collector or cannot trace his title from the registered superior holder. It is invariably required to be produced in the case of transfers by inheritance.

Penalty for  
neglect to  
give notice.

32. Every person neglecting to give the notice required by the two last preceding sections within the time therein specified, shall be liable at the discretion of the Collector to a fine not exceeding ten rupees in case of holdings paying less than one rupee as land-revenue, and in no other case exceeding rupees one hundred.

33. Every person transferring the title to any land, house, or other immoveable property subject to the payment of land-revenue to Government, without giving the notice required by sections 30 and 31, shall continue liable to Government for the payment of all land-revenue accruing due in respect thereof, until he shall have given such notice or until the requisite transfer shall have been effected in the Collector's records.

Person transferring title and omitting to give notice to continue liable for revenue.

But nothing contained in this section shall be held to diminish the liability of the land, house or other immoveable property to attachment or sale under the provisions of section 13.

The second clause of this section was specially introduced in order to make the purchaser equally liable with the vendor for the payment of land-revenue due to Government. \*

34. Whenever any dispute or question shall arise with respect to the making or completion of any entry or transfer in the records of the Collector, of or relating to any land, house or other immoveable property subject to the payment of land-revenue to Government, the Collector shall summon all the parties interested in such entry or transfer, and shall call for such evidence, and examine such witnesses, as

Proceeding in case of dispute as to entry or transfer.

\* Vide Proceedings in Council dated 5th January 1876. Bom. Govt. Gaz. dated 3rd February 1876, Pt. V, p. 156.

he shall consider necessary, and shall there-upon decide summarily what entry shall be made in his records in respect of such land, house or other immoveable property.

If at any time a certified copy shall be produced to the Collector of an order of a competent Court determining the title to any such land, house or other immoveable property, the Collector shall amend his records in conformity with such order.

The Collector's inquiry under this section is summary.

The latter part of the section means that the Collector shall give full force to the decree.

"When the Collector discovers any encroachment on occupied land, he should serve a notice on the encroacher, setting forth fully the details of the encroachment and calling on him to show cause why he should not pay the assessment or rent or tax on the land on which he has encroached. A copy of the notice should go to the person whose land has been encroached on, in order that if he wishes he may be present on the date fixed in the notice for the encroacher to show cause before the Collector. The Collector will on the day so fixed proceed to decide summarily under section 34 "what entry shall be made in his record in respect of the land, house or other immoveable property" encroached on. If he finds the encroachment established, he will correct the records and rolls accordingly, and will thenceforth recover from the encroacher the assessment due on the land encroached on, and will cease to recover from the person whose land has been encroached on, the assessment on that land." (G. R. No. 3325 dated April 1905.)



35. The registration or transfer of any title in the Collector's records shall not be deemed to operate so as in any way to affect any right,<sup>3</sup> title or interest of Government in the land, house or other immoveable property in respect of which any such transfer is made or registered.

Registration or transfer not to affect right of Government,

The object of registration or transfer in the Collector's record is merely to facilitate recovery of land revenue.

*Part\* IX.—Procedure.*

36. The provisions of the Code of Civil Procedure <sup>[a]</sup> in force for the time being with respect to the issue of summonses and commissions, and the compelling the attendance of witnesses, and for their remuneration, in suits before a District Court, shall apply to all persons summoned to appear before the Collector under the provisions of this Act.

Law applied to summonses, etc.

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\* Under this part the original Bill contained a section empowering the Collector to issue a summons requiring any person to appear at the Collector's office either in person, or by duly authorized agent and produce all such papers and documents as may be required by the Collector. But this section was objected to very strongly by the Law Society and the Select Committee altered the section materially by allowing a party to appear in all cases by an agent and requiring from him only "such information as may be in his possession." The section was ultimately omitted.

[a] Vide Sections 27 to 32, 75 to 78, Order XVI of the Civil Procedure Code (India Act V of 1908).

Notices how  
to be served.

[a] Any notice which the Collector or any of his subordinates is by this Act required or empowered to issue shall be deemed to have been sufficiently served,

(a) if it is addressed to any person and has been

(i) delivered to such person, or

(ii) delivered at his abode and in his absence to any adult male member or servant of his family, or

(iii) sent by post in a letter addressed to him at his last known residence, address or place of business and registered under Chapter VI of the Indian Post Offices Act, 1898, or

(b) if the Collector is in doubt as to the person to whom such notice should be addressed or as to the residence, address or place of business of any person on whom it is desired to serve such notice, and

(i) causes the notice to be posted in some conspicuous place on or near the land to which it relates, and

(ii) publishes the notice either in the *Bombay Government Gazette* or in such local newspapers as he deems fit or by proclamation on or near such land accompanied with beat of drum. [a]

For Form of Summons, vide Appendix No. 11.

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[a-a] This paragraph was added by section 7 of Bom. Act III of 1900.

*Part X.—Levy of House-rent, Fees,  
Penalties, etc.*

37. All arrears of rent payable by any person in respect of the occupation of any house the property of Government, and all fees, fines and penalties chargeable under this Act, and all moneys leviable under the provisions of this Act on account of the value of any land, or on account of the alteration, removal, renewal or repair of survey-boundary-marks, <sup>[a]</sup> or on account of the abatement or removal of an encroachment, <sup>[a]</sup> shall be realized in the same manner as other revenue-demands, under the provisions of section 13 of this Act.

Dues leviable as revenue demands.

38. It shall be lawful for the Collector of Bombay to levy, in the same way as any arrear of land-revenue due under this Act, any sum certified by the Collector or Assistant or Deputy Collector of any district or collectorate in the Presidency of Bombay to be due and recoverable as an arrear of land-revenue, from any person residing or owning property in the City of Bombay, by whom the same is so certified to be due.

Power to Collector of Bombay to assist other Collectors in realization of dues.

This section was framed to enable the Collector of Bombay to recover arrears of land-revenue due on lands within the Presidency of Bombay but outside the City of Bombay, when the Revenue Recovery (India) Act I

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[a-a] These words were added by section 8 of Bom. Act III of 1900.

of 1910 had not been enacted. Since the passing of that Act, however, this section has become redundant and has been superseded by sections 3 and 4 thereof, which run as follows :—

3 (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate \* in the form as nearly as may be of the schedule, stating

- (a) the name of the defaulter and such other particulars as may be necessary for his identification, and
- (b) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

4 (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent; institute a suit for the payment of the amount or the part thereof so paid.

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\* Vide Appendix No. 12.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability of the payment of the same arose.

*Part XI.—Miscellaneous.*

39. It shall be the duty of the Collector to prepare and keep in such form as Government may from time to time sanction a separate register and rent-roll of every description of land according to the nature and terms of the tenure on which such land is held.

Collector to keep registers and rent-rolls.

The form of the Survey Register was approved by Government Resolution No. 303 dated 17th January 1877.

The form of the rent-roll at present in use was approved by Government in G. R. No. 4576 dated 16th June 1904.

For Forms of Register and Rent-roll, see Appendices No. 13 and 14.

40. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and land-registers, and other records of the Bombay City-survey, and all records concerning the land or the land-revenue, shall be kept in the Collector's office, and shall be open to the inspection of the public at reason-

Maps, land-registers and records where to be kept; to be open to inspection. Extracts and copies to be given.

able hours; and certified extracts from such maps, registers and records, or certified copies thereof, shall be given to all persons applying for the same.

For rules under this section "for the inspection, search or obtaining copies of all maps and land registers and other records of the Bombay City Survey and all records concerning the land or the land-revenue kept in the Office of the Collector of Bombay" vide Appendix No. 15.

These Rules were approved by G. R. No. 2374 dated 13th March 1914.

In *Merwanji M. Cama and another vs. The Secretary of State for India in Council* \* where the plaintiffs claimed that owing to representations contained in three extracts from the rent rolls kept by the Collector of Bombay (which were copied by their mortgagor's agent) they were intentionally caused or permitted to believe that the land in the suit was of Quit and Ground Rent tenure and that by reason of such representations made by the Collector of Bombay to the plaintiffs or their mortgagor or their agents the Secretary of State was estopped from denying that the said land was of that tenure and from asserting that it was held under a sanad, Beaman J. said :—

"Nothing of the kind is true of the records of the Collector's office and I think a very great part of the confusion which arises in dealing with cases of this kind is attributed to regarding the Collector as an ordinary member of society volunteering statements about the land under his charge of his own free will and on his sole responsibility to persons who seek information from him. The truth is that the Collector of Bombay is

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\* XIV Bom. Law Rep. p. 654.

a legal person represented by a great public office containing a vast mass of information. Since that information is of general interest and utility to the public Government has intimated that the public are to have a free access to it upon payment of certain small charges and dues. So that when a member of the public goes to the Collector for information regarding certain lands, it is not as though the Collector volunteered the information picked and chose it for himself out of his records and despatched it perfect or imperfect to the applicant but it is the applicant himself who has a free run of the whole office and selects precisely such information as he thinks would be of use to him. What representation the Collector makes and this, I think, is the key and the final answer to every argument and of every difficulty which has been pressed and raised before me by the plaintiffs as creating an estoppel, is not this or that certified extract but the whole mass of information which his office contains and which is open to every person who seeks to avail himself of it and exercises due care and diligence, in making it complete. I think it would be carrying the principle of estoppel much too far to say that an officer like the Collector of Bombay embodied for legal purposes in the terms "the Collector of Bombay" is bound, when inquiries are made regarding the tenure of any land, to search through the whole of his records and to guarantee that the applicant has not only got what he came to ask for but for every scrap of information regarding the same land available in the records of the office. Yet I do say most emphatically that a close analysis will show that this is the real and the only meaning of any representation made by the Collector when such representations are sought to be used against him or his superior as estoppels. The Collector cannot be held responsible if persons making inquiries leave those inquiries defective,

if persons making extracts from his books, through caprice, carelessness or of set purpose take such extracts as suit themselves but by no means exhaust the information which the Collector, that is to say, the whole office of the Collector, would yield them."

In appeal \* with reference to the same point, Scott C. J. in upholding the judgment of the lower court said :

"Under Section 40 an extract is something different from a 'copy' and a 'copy' can hardly be supposed to mean a copy of the whole rent roll in the case of ordinary applicants. The inference therefore is that the legislature did contemplate the granting, under the designation of 'extract', of selected entries only, from the rent roll, although they might not be all the entries relating to the property with which the extract was concerned. .... It is sufficient for this case to say that I am unable to hold that where a document merely purports to be a certified extract there is any representation even to the person applying for the extract that no other entry will be found in the rent roll for this period in question relating to land to which that document refers."

**Copies of Government Resolutions :—**Government Resolutions should not be communicated to private persons. (G. R. No. 2614, dated 16th March 1906).

Power to  
frame and  
vary rules  
for guidance  
of Collector,  
etc., and for  
matters not  
provided for.

41. It shall be lawful for the Governor in Council from time to time to frame, and from time to time to vary or repeal, rules not inconsistent with the provisions of this Act for the guidance of the Collector and his assistants and other subordinates in the discharge of their duties, or for any other purpose connected with the subject-matter of this Act, not expressly provided for therein.

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\* XIV Bom. Law Rep. p. 654.



Any of such rules as the Governor in Council may deem fit may be published, and when published shall, until cancelled or amended by the Governor in Council, have the force of law.

For rules under this section vide Appendix No. 16.

### SCHEDULE A.

*Table of Fees payable under the provisions of section 16 of this Act.*

Sum distrained for.	Fee.
	Rs. a.
Not exceeding Rs. 5 .. .. .	0 8
Over Rs. 5 and not exceeding Rs. 10 ..	1 0
" 10                      " 15 ..	1 8
" 15                      " 20 ..	2 0
" 20                      " 25 ..	2 8
" 25                      " 30 ..	3 0
" 30                      " 35 ..	3 8
" 35                      " 40 ..	4 0
" 40                      " 45 ..	4 8
" 45                      " 50 ..	5 0
" 50                      " 60 ..	6 0
" 60                      " 80 ..	7 8
" 80                      " 100 ..	9 0
Upwards of Rs. 100 .. .. .	10 0

[a] *Table of Rates of Fees payable under the provisions of section 13 in respect of notices demanding payment of arrears of revenue.*

Revenue due.	Notice fee.
	Rs. a.
Not exceeding Rs. 25 .. .. .	0 8
Over Rs. 25 and not exceeding Rs. 100 ..	1 0
Over Rs. 100 .. .. .	2 0

[a] This table was added to Schedule A by Bom. Act III of 1900, s. 9.

# SCHEDULE B.

(Form of Notice of Transfer to be given within one year from the date of transfer under Section 30 of Bombay Act No. 11 of 1876 as amended by Bombay Act III of 1900 when the transfer has taken place otherwise than by Instrument).

- \* [N. B.—(1) This application for transfer will not be accepted unless accompanied by a plan of the land prepared by a duly qualified surveyor recognized by the Collector under section 31 of the Act.
- (2) In cases where the instrument of transfer or certificate of batakī is required, notice signifying the Collector's requirements will be issued to the applicant as soon as possible after the receipt of his application. Failure to comply with such notice within two months from the date thereof will involve cancellation of the application for transfer.]

To

THE COLLECTOR OF BOMBAY.

I, hereby give notice, as required by Section 30 of the Bombay City Land Revenue Act, of the following transfer of property :—

Date of Notice.	Name in which the property is at present entered in the Collector's Records.	To whose name it is to be transferred.	Description of the Property.						
			Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of Land.	Boundaries.	Remarks.

\* Inserted under authority of Government Resolution No. 2727, Rev. Dept., dated 14th March 1907.

## SCHEDULE C.

(Form of Notice of Transfer to be given within 20 days of the receipt of the document from the Registrar under Section 30 of Bombay Act No. II of 1876 as amended by Bombay Act III of 1900 when the transfer has been effected by Instrument.)

\*[N.B.—(1) This application for transfer will not be accepted unless accompanied by a plan of the land prepared by a duly qualified surveyor recognized by the Collector under section 31 of the Act.]

(2) In cases where the instrument of transfer or certificate of batak is required, a notice signifying the Collector's requirements will be issued to the applicant as soon as possible after the receipt of his application. Failure to comply with such notice within two months from the date thereof will involve cancellation of the application for transfer.]

To

THE COLLECTOR OF BOMBAY.

I , hereby give notice, as required by Section 30 of the Bombay City Land Revenue Act, of the following transfer of property:—

Date of Notice.	Date of Instrument.	Name of Vendor or Assignor.	Name of Purchaser or Assignee.	Amount of consideration.	Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of Land.	Boundaries	If Instrument has been registered, the date of Registration.	Remarks.

• Inserted under authority of Government Resolution No. 2727, Rev. Dept., dated 14th March 1907.

## APPENDIX No. 1.

*Notice under Section 9 of Bombay Act II of 1876.*

NOTICE is hereby given under the Bombay City Land Revenue Act, 1876 as amended by Bombay Act III of 1900 to all persons claiming the right of a superior holder in or over the land described below, or a right to the possession thereof, to intimate their claim to me at the Bombay Collector's office within 21 days from the date of this notice.

**DESCRIPTION OF LAND.**

A piece of land measuring                  square yards or thereabouts situate on the                  side of                  Street in the Island of Bombay bearing New Survey Number                  and bounded as follows, namely on the north by  
on the south by                  on the east by  
and on the west by

**Collector of Bombay.**

## APPENDIX No. 2.

*Notice under Section 12 of Bombay Act II of 1876.*

No.

**Bombay Collector's Office,**

19 .

**To**

Mr.

By order of the Right Honourable the Governor of Bombay in Council I do hereby, under the provisions of Section 12 of Bombay Act II of 1876, make known to you

that henceforth and until further Notice all landholders or persons in possession of land paying revenue to Government in the Island of Bombay, are required to pay the land revenue in respect of the land held by them or of which they are in possession to the Collector of Bombay or his Clerk or Agent authorized in that behalf at his Office on the                      day of                      in each and every year until further notice; accordingly I hereby order and require you to pay in this Office to my Shroff the sum of Rupees                      on account of Government Assessment or ground-rent for the                      land situate at                      under Collector's New No.                      and New Survey No.                      and standing in the books of this Office in the above name.

On your failing in any year hereafter until such further notice as aforesaid to make the above payment at or within the time, at the place, and to the person above-mentioned, the above amount will be recovered by attachment and sale of your property or otherwise in the manner provided by Section 13 of the Act as amended by Section 4 of Bombay Act III of 1900.

The amount payable in each year as aforesaid being less than Rupees ten, you are at liberty to pay the revenue in respect of the above land for five or ten years in advance on the                      day of                      next or within one calendar month thereafter at your option.

Collector.

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*N. B.*—This notice must be produced at the time of paying the ground rent into this office.

## APPENDIX No. 3.

## RECEIPT-BILL.

*No receipt will be acknowledged that is not on the prescribed printed form and is not signed both by the Shroff and the Account Clerk.*

Collector's Old No.

Collector's New No.

Old Survey No.

New Survey No.

Tenure.

Area square yards.

Mr. \_\_\_\_\_

The Government of Bombay.....Dr.

						Rs.	a.	p.
To a year's rent of ground occupied by you situated at _____ and entered in the Rent Rolls under the above Numbers.								
From	191	to	191	..				
Notice Fee ..	..	..	..	..				
Warrant Fee..	..	..	..	..				
Total ..								

E. E. and Contents received.

Bombay Collector's Office, }  
\_\_\_\_\_ 191 . }

Shroff.

Clerk,

Bombay Collector's Office.

(Attention is invited to the notice on the reverse.)

(on the reverse.)

## NOTICE.

I. The next bill falls due for payment on the expiry of the year following the year for which this is issued (see dates on reverse). Payment should be made on or before the first day of the following period.

II. If payment is not made on or before the due date, notice of demand will issue under section 13 of Bombay Act II of 1876 as amended by section 4 of Act III of 1900, for which a fee will be charged according to the following scale :—

Revenue due.	Notice Fee.
	Rs. a. p.
Not exceeding Rupees 25 .. .. .	0 8 0
Over Rupees 25 and not exceeding Rupees 100 ..	1 0 0
Over Rupees 100 .. .. .	2 0 0

III. If payment is not made within twenty days after service of the notice of demand a warrant of attachment will issue, for which a fee will be charged according to the following scale :—

Sum distrained for.	Fee.
	Rs. a. p.
Not exceeding Rupees 5 .. .. .	0 8 0
Over Rupees 5 and not exceeding Rupees 10 ..	1 0 0
"    10 .. .. .	1 8 0
"    15 .. .. .	2 0 0
"    20 .. .. .	2 8 0
"    25 .. .. .	3 0 0
"    30 .. .. .	3 8 0
"    35 .. .. .	4 0 0
"    40 .. .. .	4 8 0
"    45 .. .. .	5 0 0
"    50 .. .. .	6 0 0
"    60 .. .. .	7 8 0
"    80 .. .. .	9 0 0
Upwards of Rupees 100 .. .. .	10 0 0

*N.B.*—The above fees are payable immediately on issue of the notice or warrant and whether or not the notice shall actually have been served, or any seizure of property have been made under the warrant.

All transfers of landed property must be notified to the office of the Collector within twenty days after registration if by deed, or within one year if by death.

The special attention of holders of Pension and Tax lands and of holders of Quit and Ground Rent and Foras lands making an annual payment of Rupees ten or less is drawn to the fact that, under the orders of Government, they can redeem the cess now paid by them and free themselves from all future liability to the payment of such rent on their lands by the payment of a sum equal to thirty times the present annual assessment.

APPENDIX No. 4.

*Notice under Section 12 of Bombay Act II of 1876,  
amended by Bombay Act I of 1910.*

No. of

To

Mr.

By order of the Honourable the Governor of Bombay in Council I do hereby make known to you that under the provisions of Section 12 of Bombay Act II of 1876 amended by Bombay Act I of 1910 (Item 1 of Part II of the First Schedule) I have fixed a sum equal to 30 times the Assessment as the lump sum to be paid in lieu of the Assessment hitherto payable on all Pension and Tax, Quit and Ground Rent and Foras holdings the Assessment on which does not exceed one Rupee per annum; and that all holders of land under the Pension and Tax, Quit and Ground Rent and Foras tenures the Assessment on whose lands does not exceed Rupee 1 per annum are accordingly required to pay in lieu of the present assessment a sum equal to thirty times the amount thereof to the Collector of Bombay or his clerk or agent authorized in that behalf at his office in the Town Custom House on any working day before

19 . I therefore hereby require you to pay to my Shroff at this office the sum of Rs. being thirty times the Government Assessment or Ground Rent (Rs. ) for the land situate at under Collector's Old No. and New No. and Old Survey No. and New Survey No. and standing in the books of this office in the name of

2. Should you fail to make the above payment within the time, at the place and to the person abovementioned the above amount will be recovered by compulsory



process in the manner provided by Section 13 of Bombay Act II of 1876, amended by Bombay Act III of 1900.

3. On payment of the lump sum referred to above the said land will thereafter be held free from Assessment.

Office of the Collector of Bombay :  
Town Custom House.  
Dated \_\_\_\_\_ } Collector.

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*N.B.*—(a) This notice must be produced at the time of paying the capitalized revenue into this office.

(b) No payment will be received after 3 p.m. on all week days except Saturday, and after 1 p.m. on Saturday.

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APPENDIX No. 5.

*Notice of Demand for Payment of Land Revenue under  
Section 13 of Bombay Act II of 1876, as amended by  
Section 4 of Bombay Act III of 1900.*

No.

Bombay Collector's Office  
Town Custom House :

To

191

Mr. \_\_\_\_\_

Take notice that on behalf of Government I hereby demand payment by you of the sum of Rupees now due and unpaid on account of land revenue for the year 191 —191 , on the land situate at \_\_\_\_\_, and standing in the Collector's books in the name of \_\_\_\_\_ and under the Collector's New No. \_\_\_\_\_, and New Survey No. \_\_\_\_\_, and also payment by you of the fee of Rs. \_\_\_\_\_ in respect of this notice, which two sums make together

the sum of Rs.                   ; and take notice that if the above amount of Rs.                   be not paid into this Office within twenty days after the date of service hereof on you, I shall proceed to obtain payment of the same by attachment and sale of the above land, or of any other property of yours, moveable or immoveable, or by the other remedies provided by Section 13 of Bombay Act II of 1876, as amended by Section 4 of Bombay Act III of 1900.

Collector.

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*N.B.*—No payment will be received after 3 p.m. (S. T.) on all week days except Saturday, and after 1 p.m. (S. T.) on Saturday.

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#### APPENDIX No. 6.

##### *Form of Prohibitory Order under Section 13.*

No.                   of 19

Bombay Collector's Office,

To

Whereas the sum of Rupees                   is.  
payable on account of                   by

who is believed to have the property specified in the Schedule hereunder written. And whereas a Notice of Demand was issued under Section 13 of the Bombay Act II of 1876 as amended by the Bombay Act III of 1900 and was served upon the defaulter on the                   day of                   19

Now I hereby attach the property consisting of the several sums of money or debts due by you to the said defaulter                   which are specified in the schedule

hereunder written and I do hereby order that the said defaulter be prohibited and distrained from receiving from you the said several sums of money or debts due by you to the said defaulter and you are hereby prohibited and distrained from making payment of the said sums of money or debts or any part thereof to any person whatsoever or otherwise than to me on behalf of Government.

**SCHEDULE.**

Given under my hand and seal this                      day of  
19 .

Collector of Bombay.

## APPENDIX No. 7.

*Warrant of Attachment under Section 13 of Bombay Act  
No. II of 1876 as amended by Section 4 of  
Bombay Act III of 1900.*

**To**

Mr.

**Whereas Mr.**

has failed, after due notice, to discharge the revenue due by him to the Bombay Government, amounting to Rupees \_\_\_\_\_, for the year \_\_\_\_\_ due by him in respect of the land situate at \_\_\_\_\_ and standing in the Collector's books in the name of \_\_\_\_\_

and under Collector's new No.                      and new Survey  
No.                      you are hereby authorized and directed, by  
virtue of the powers given to me under Section 13 of  
Bombay Act No. II of 1876, amended by Section 4 of  
Bombay Act III of 1900, to enter into and take

possession of the said land or of any other property,  
moveable or immoveable of the said

and to continue in such  
possession thereof until the said sum of Rupees  
shall be duly paid, or until the said land and property  
shall have been sold in liquidation of the amount so due,  
pursuant to the provisions of the said Act.

Given under my hand and seal at Bombay,  
this            day of            19 .

Collector of Bombay.

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APPENDIX No. 8.

*Conditions of sale of lands seized under Distress Warrant  
for non-payment of Government ground rent demand  
under Section 13 of Bombay Act II of 1876  
as amended by Act III of 1900.*

The right title and interest in the lands as per  
accompanying statement will be sold by public auction  
under the powers vested in the Collector of Bombay by  
Act II of 1876 as amended by Act III of 1900 to the high-  
est bidder subject to the payment of land revenue to  
Government. The sale will take place on  
the            day of            19

2. The purchase money to be paid in cash for  
which the Collector will grant a receipt but no other  
papers as to the lands to be demanded except the entry  
of the name of the purchaser as the owner of lands in the  
Collector's Rent Rolls, the purchaser presenting the usual  
transfer form within the time allowed by the Act, viz.  
20 days from the date of sale.

3. The sale will be subject to the confirmation by  
the Collector.

Collector of Bombay.

Bombay Collector's Office,

APPENDIX No. 9.

*Notice under Section 26 of Bombay Act II of 1876 as  
amended by Section 5 of Bombay Act III of 1900.*

No.

Bombay Collector's Office,

19

To

Mr.

I do hereby give you notice that I prohibit the encroachment made on the Government land under New Survey No.                      and Collector's New No.                      at                      by                      and that such prohibition shall take effect on the                      day of                      19                      , and I hereby further give you notice that I require you to abate and remove on or before the said                      day of                      19                      , the said encroachment, and that in your default the encroachment will be summarily abated or removed by this Department and the expense incurred therefor will be leviable from you as being the person in occupation of the land encroached upon.

And take notice that if you make, cause, permit or continue any encroachment on the said Government land you will be liable to a fine not exceeding twenty-five Rupees for every day during any portion of which the encroachment continues after the said                      day of                      19                      .

Collector,

APPENDIX No. 10.

*Form of License for the beat of Bataki (Section 31).*

Date of application 191  
No. of 191 .

The bearer,  
has permission, on procuring the countersignature of the Assistant Municipal Commissioner to this License, to give public notice by beat of bataki, pursuant to Bombay Act No. II of 1876.

(Description of the property to be transferred).

Any person or persons having any claim or right by way of inheritance or mortgage, should bring the same to the notice of the Collector of Bombay, or the Assistant Municipal Commissioner, within 14 days from the date of beating bataki, otherwise he, she or they will be precluded therefrom.

(Sd.)

Chief Presidency Magistrate's Court, Bombay, 191 .	}	Chief Presidency Magistrate and Revenue Judge, Bombay.
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APPENDIX No. 11.

*Summons under Section 36 of Bombay Act II of 1876 as amended by Section 7 of Bombay Act III of 1900.*

No.  
Bombay Collector's Office,  
191

To

Mr.

I hereby require you to appear in this Office in person or by Agent on day of 191  
at o'clock m. with reference to

Collector.

APPENDIX No. 12.

CERTIFICATE.

(Under Section 3, Sub-section I of Act I of 1890.)

From

The Collector of

To

The Collector of

Dated the                      of                      19

The sum of .Rs.                      is payable on account of  
by                      son of                      of  
resident of                      who is believed (to be at  
                    ) (to have property consisting of  
at                      ) in your district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at

Collector of

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## APPENDIX No. 15.

*Rules\* for the inspection, search or obtaining copies of all maps and land registers and other records of the Bombay City Survey and all records concerning the land or the land-revenue kept in the Office of the Collector of Bombay.*

1. Every application for search, inspection and supply of copies of, or extracts from, the Records shall be made in writing on paper bearing a Court Fee Stamp of the value of one Anna. The date of receipt shall be endorsed upon the application and the dates on which the requisition was satisfied and the amount of the fee received shall be duly recorded.

2. All fees for search, inspection or copies including value of Stamps required must be paid in advance.

3. Certified copies will be given on stamped papers in accordance with Article 24, Schedule I of Act II of 1899 and Schedule I of Act VII of 1870.

4. All certified copies applied for, of documents or extracts from documents in the Records, shall be prepared and compared by members of the Collector's establishment and charges will be made at the following rates:—

## COPYING FEES.

*For ordinary Documents.*

Annas two per folio of 100 words or fraction of 100 words subject to a minimum charge of annas 8.

*For Tabulated Documents.* . . . . Annas .

Extracts from Survey Registers, each entry . .	8
„ „ Rent Rolls „ „ . .	8
„ „ Reference Books „ „ . .	8
Transfer Schedules . . . . .	8

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\*Published under Notification dated 13th March 1914 in Bombay Government Gazette, dated 19th March 1914, Part I, p. 534.

*For Plans.*

	Square yards.	Rs.
For plans of areas below	100	.. 2
" " " between	100 and 500	.. 3
" " " " "	500 and 1,000	.. 4
" " " " "	1,000 and 3,000	.. 5
" " " " "	3,000 and 10,000	.. 8
" " " over	10,000	.. 10

COMPARING FEES.

*For Documents.*

The comparing fee shall be equal to the copying fee subject to the minimum fee of one rupee and the maximum fee of two rupees.

*For Plans.*

For copies of Revenue Survey plans the comparing fee shall be Rs. 3 for plans of areas below 3,000 square yards and Rs. 5 for plans of areas above 3,000 square yards.

For copies of other plans the comparing fee shall be Rs. 2.

5. A fee of Rs. 5 for each day will be charged in every case for search and inspection when permitted by the Collector. In no case will less than Rs. 5 be charged for search or inspection.

6. No search, inspection or copies of documents will be given in cases where it is obvious that such a course would be prejudicial to the interest of Government.

APPENDIX No. 16.

*Rules under Section 41 of Bombay Act II of 1876.*

**[a] Regarding the production of records of the Collector of Bombay before the Courts of Law under subpoena duces tecum.**

1. Every summons for a production of the Collector's record, maps, or rent-rolls into Court should be accompanied with a fee of Rs. 5, for which a receipt in due form will be given, and the amount credited to Government.

2. The clerk, surveyor, or inspector, or other person

Person getting Rs. 30 or less	p. m. ..	Rs. 1.	or persons producing the record on behalf of the Collector, shall be
Do. getting Rs. 31 to 60	do. ..	Rs. 2.	
Do. getting „ 61 to 100	do. ..	„ 3.	
Do. getting „ above Rs. 100	do. ..	„ 5.	

entitled to buggy-hire and attendance fee as per scale marginally noted per diem, each, which fee shall be taken by himself or themselves as his or their remuneration.

3. In the event of the party refusing to pay the fees or buggy-hire mentioned in rules 1 and 2, the clerk or other person or persons charged with production of the required record shall attend the Court, and inform the Judge that the fee has not been paid, and the order given by the Judge in the matter should be reported to the Collector in writing.

**[b] Regarding the disposal of Government lands for the manufacture of salt.**

1. Government salt lands or lands occasionally overflowed by salt water should not ordinarily be disposed of under section 25 of the Act, without first

[a] Published under Notification dated 17th January 1877, Bombay Government Gazette, dated 18th January 1877, Part I, p. 50.

[b] Published under Government Notification No. 6829 dated 5th October 1891, Bombay Government Gazette dated 8th October 1891, Part I, page 817.

ascertaining by reference to the Salt Department whether they are wanted or likely to be wanted for salt manufacture.

2. On receiving an intimation from the Collector of Salt Revenue that any unoccupied Government land at the disposal of the Collector of Bombay is wanted or is likely to be wanted for salt manufacture, the Collector of Bombay may, if he sees no objection to its appropriation for that purpose, dispose of such land to the Salt Department, and shall, in such case, cause a note to that effect to be made in the Survey Register.

Such land shall thenceforth be at the disposal of the Collector of Salt Revenue, subject to the general orders of Government, to let for the manufacture of salt or to make other arrangements as to its use for that purpose, on such conditions and for such period, as, subject to the said orders, he may deem fit.

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## GENERAL INDEX.

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### ABATEMENT

- on land submerged—42
- of land revenue for lands taken up by the Municipality  
for set-back—19
- do. do. , compensation for,—19

ABUNHADO, meaning of,—iv

ACQUISITION of lands in Colaba and Old Woman's  
Island—lxi

ACTS done in official capacity—32

AGREEMENT, Tenancy-at-will, form of,—clix

### ALIENATION

- of Crown lands—x
- of lands in Colaba and Old Woman's Island—l, lix

ALLUVION, defined—40

ALLUVION, ALLUVIAL LANDS—40

ALVARES PIRES DE TAVORA, Proprietor of the  
Mazagon Estate—lxv

ANJIDIV, Island of,—iii

ANTONIO DE LIMA, Part Proprietor of the Mazagon  
Estate—lxv

ANTONIO DE MELLO E CASTRO

- authorized to deliver the Island of Bombay to the  
English—ii

**ANTONIO DE MELLO E CASTRO—*contd.***

refuses to interfere his authority with the Portuguese  
in delivering the Island of Bombay to the  
English ii

Viceroy of the King of Portugal—ii

**ANTONIO DE SILVA, Part Proprietor of the Mazagon  
Estate—lxv**

**ANTONIO PESSOA, grant of the Mazagon Estate to,—lxiv**

**APPEALS**

against the decision of the Revenue Judge—35

against the decision of the Revenue Judge, when to  
be filed—36

to His Majesty in Council, rules for the,—36

to His Majesty in Council, when to be filed—36

to the High Court, rules for the,—36

**ARBITRATION *re* Mazagon Estate—lxxvi**

**ARBITRATORS, Award of the, *re* Mazagon Estate—lxxvi**

**ARBUTHNOT, Collector of Land Revenue, reports of,  
on Toka and Foras Toka lands—xlii, lxli**

**ARCHITECTURAL CONDITIONS in leases—45**

**AREA of the Island of Bombay—cxii**

**ARREARS OF LAND REVENUE**

how realized—25

to have precedence—21

when paramount charge on land—21

**ARREST OF DEFAULTER**

when made—26

Government not in favour of, except in extreme  
cases—29

**ASSESSMENT**

- cannot be fixed retrospectively—14
- settlement of,—16
- specific limit to, for lands under different tenures—14
- when binding on superior holder—15, 16

**ATTACHMENT**

- necessary prior to sale—27
- of land on which revenue is due—25
- of monies due to a defaulter—28
- warrant of, form of,—79

**AUNGIER'S CONVENTION—viii, ix, cxiii****AWARD of Arbitrators *re* Mazagon Estate—lxxvi****BATAKI**

- certificate of,—57
- certificate of, when required to be produced—58
- procedure for the beat of,—58

**BATTY LANDS farmed—xiv****BENCH MARKS fixed by the Officers of the City Survey—cxi****BERNADINO DE TAVORA, Patent of the Mazagon Estate to,—lxv****BHANDARWADI**

- farm of, leased—lxix, lxx
- farm of, relinquished—lxxv
- lands in, held on sufferance—lxxxii
- lands in, leases of,—lxxxiii

**BOMBAY, City of, defined—2**



**BOMBAY CITY SURVEY**

recognized—37

Records of the, to be *prima facie* evidence—37

Records of the, when to be corrected—37

which survey is called the,—37

**BOUNDARY**, northern, of the Island of Bombay—2

**BOUNDARY MARK**, definition of,—4

**BOUNDARY MARKS**

expense incurred on account of the,—38

inspection, renewal and repairs of,—33, 39

maintenance of,—38

**BURGA**, meaning of,—xiv

**CESSION** of the Island of Bombay—iv

**CHARLES**, Collector of land revenue, suggestions of, *re*  
increase of assessment—xliv

**CHIEF CONTROLLING AUTHORITY**—7

**CHRISTOVAO DE SOUZA DE TAVORA**, Proprietor of  
the Mazagon Estate—lxv

**CHURNEY**

farm of, leased—lxx, lxxi

part of,—lxv

**CITY OF BOMBAY**, definition of,—2

**CITY OF BOMBAY LAND REVENUE ACT**—xli

**CLAIMS OF GOVERNMENT**

communicated to the Commissioner of the High  
Court—22

to have precedence—21

CLASSIFICATION OF LANDS—11

COLABA, Revenue History of,—xlvii

•COLLECTOR, COLLECTOR OF BOMBAY, definition  
of,—3, 4

COLLECTOR, discretion of the, in levying assess-  
ment—12

COLLECTOR OF BOMBAY

appointment of the,—7

assistants of the, duties of the,—7

assistants of the, how appointed—7

authorized to execute leases on behalf of the Secre-  
tary of State for India in Council—49

authorized to sell land to Municipality for set-  
back—20

chief controlling authority—7

decision of the, to be acted on in the first  
instance—30

decision of the, when stayed—30

duties of the,—7

duty of the, to fix and levy assessment—8

establishment of the, duties of the,—7

establishment of the, how appointed—7

inquiry of the, in disputes of title—59, 60

power of the, to fine, &c., his subordinates—8

to assist other Collectors in realization of dues—63

to direct to whom, when and where revenue to be  
paid—22

to keep registers and rent-rolls—65

**COLLEWADY-SOORJI**

farm of, leased—lxix, lxx, lxxi

farm of, relinquished—lxxv

lands in, held on sufferance—lxxxii

lands in, leases of—lxxxiii

**COMPENSATION** for loss of rent by abatement of  
revenue—19

**COMPULSORY PROCESS** when to cease—31

**CONDITIONS OF SALE** of land seized under distress  
warrant—80

**CONDUCT OF GOVERNMENT SERVANTS**

rules relating to,—8

**CONTOURS** of the hills in the Island of Bombay—cxii

**CONTROL OF GOVERNMENT** to mean general  
control—12

**CONVERSION OF TENURE**

form of, from Sanadi to Quit and Ground Rent—clvi

from Sanadi to Quit and Ground Rent—civ

**COOKE, Humphrey**—iii, v

**COOKE'S CONVENTION**—iv

**COOKE'S CONVENTION** disavowed—v

**COURT OF DIRECTORS**

despatch to the, *re* lands in Colaba and Old Woman's  
Island—liv

instructions from,—vii, x

farming system disapproved by the,—lxxix

orders of the, *re* land in Colaba and the Old  
Woman's Island—liv, lviii

orders of the, *re* Salt batty lands—xxvii

**DECREES**

- how executed—35
- when stayed—36

**DEFAULTER**

- property of, to be sold—25
- may be arrested and confined—26

**DELEGATION**

- of the powers of the Collector of Bombay to his Assistants and other subordinates—8

**DEPARTMENTAL SURVEY of part of the Island of Bombay—cix****DETERIORATION**

- condition as to, in leases—46

**DICKINSON, Captain**

- recommendations of, *re* lands in Colaba and Old Woman's Island—li
- Revenue Survey of Colaba and Old Woman's Island by,—l
- suggestions of *re* lands in Fort—xxiii
- Survey of the Island of Bombay by,—xxiii, cviii

**DISCRETION of the Collector in levying assessment—12****DISPUTES**

- as to entry or transfer in the Collector's records—59
- between farmers and the currumbees on the Maza-gon Estate—lxxii

**DUES leviable as revenue demands—63****DUTIES**

- of the Collector of Bombay—7
- of the Assistants of the Collector of Bombay—7
- of the establishment of the Collector of Bombay—7

**EMPHYTEUSIS, EMPHY TINTEE**, tenure, meaning of,—lxxii

**ENCROACHMENTS**

on Government lands or foreshore—

after 1876, how dealt with—50, 54

before the passing of the Act, defined—53

between the years 1856 and 1876, how dealt with—53, 55

penalty for the continuation of,—50

power to Collector to abate,—50

prior to 1856, how dealt with—54, 55

to be charged for and assessed—51

on occupied lands, how dealt with—60

**ENGLISH FLEET**, despatch of the, from England—ii

**ESPLANADE**

clearance of the,—xiii, xx

leases of lands on the,—xli

**FARMING** of batty lands—xiv

**FARMING SYSTEM** disapproved by the Court of Directors—lxxix

**FAZINDAR**, meaning of,—xv

**FAZINDARS** of Bombay and Mahim praying to be relieved of the "Tax"—xvi, xvii

**FAZINDARI**, derivation of—lxxxvii

**FAZINDARI** tenure—lxxxvii

**FEES**

chargeable in respect of notice of demand—25

how realized—63

**FEES—*contd.***

- in respect of warrant of attachment—32
- not to exceed amount of land revenue—25
- payable to peons in charge of distrained properties—32
- table of, in respect of notice of demand—69
- table of, in respect of warrants of attachment—69
- when leviable—27.

**FEITOR, meaning of,—lxiv****FINES, how realized—63****FIRE of 1803—xix****FISH PONDS, disposal of the,—46****FORAS, derivation of,—lxlvi****FORAS ACT**

- certificate under the, form of,—cxxix
- No. VI of 1851—xxxvi, cxxii
- passing of the,—lxlvii

**FORAS LANDS**

- area of,—lxlvii
- situation of,—lxlvii
- specific limit to assessment on,—15

**FORAS TENURE, kind of,—lxxxv, lxlvi****FORAS TOKA LANDS**

- reassessment of,—xlii, lxlvi
- specific limit to assessment on,—14

**FORAS TOKA TENURE, kind of,—lxlvi**

**FORESHORE**

- how disposed of—43, 44
- portions of, vested in the Improvement Trust—43
- portions of, vested in the Port Trust—43
- right of Government to,—39

**FORM OF**

- certificate of conversion of tenure from Sanadi to  
Quit and Ground Rent—clvi
- certificate under the Foras Act—cxxix
- certificate under the Revenue Recovery Act—83
- Lease No 1—cxli
- Lease No. 2—cxlix
- license for the beat of bataki—82
- notice of demand under sec. 13—77
- notice of transfer by inheritance—70
- notice of transfer by Instrument—71
- notice under sec. 9—72
- notice under sec. 12—72
- notice under the proviso to sec. 12—76
- notice under sec. 26—81
- prohibitory order under sec. 13—78
- receipt-bill—74
- rent-roll—85
- Sanad No. 1—cliv
- Sanad No. 2—clv
- summons under sec. 36—82
- Survey register—84
- Tenancy-at-will Agreement—clix
- warrant of attachment under sec. 13—79

FORO, meaning of,—iv, lxlvi

GENERAL ORDERS—xlviii, xlix

SHORUPDEO LAND held on sufferance—lxxx

GOVERNMENT FORESHORE how disposed of—43, 44

GOVERNMENT LANDS

how disposed of—43, 44

disposal of the, for the manufacture of salt—88

GOVERNMENT RESOLUTIONS, copies of, not to be given to private persons—68

GRANT

of Inam lands to the Wadia Family—xvii, xxviii, xliii, lxlvi, lxlvi, lxlvi, lxlvi, cxxx, cxxxi, cxxxvii

of the Mazagon Estate to Antonio Pessoa—lxiv

GROUND RENT established—xii

GROUND RENTS—44

HAWKINS, Lieut., Revenue Survey commenced under,—xxiii, cviii

HIGH WATER MARK

definition of the,—40

outlines of the,—cxi

HILLS, contours of the,—cxii

HOLDER, superior, definition of the,—4, 5, 6

IMPRISONMENT

of defaulters—26

of defaulters, when to cease—26

IMPROVEMENTS treatment of the,—45



IMPROVEMENT TRUST, foreshore vested in the,—43

INAM GRANTS—xvii, xxviii, xliii, lxlvi, lxlvi, lxlvi, lxlvi,  
cxxx, cxxxi, cxxxvii

#### INAMI LANDS

area of,—lxlix

at Sion, exchange of,—lxlviii

situation of,—lxlix

INAMI TENURE, kind of,—lxxxv, lxlvi

INHERENT RIGHT OF SOVEREIGN to assess—9

INSPECTION of the maps, registers and other records  
of the Collector by the public—65

#### ISLAND OF BOMBAY

area of,—cxii

ceded to the Crown of England—i

maps of the,—cviii, cxii

northern boundary of,—2

transfer of, to the Crown—xxxvi

transfer of, to the East India Company—vi

JESUITS, seizure of the lands of the,—x

JURISDICTION of the Revenue Judge—33

KAMATIPOORA—xx

KANARA LAND CASE—34

KHIST-BUNDIES, meaning of,—lxxviii

#### LANDS

acquisition of, in Colaba and Old Woman's Island—lxi

batty, farming of,—xiv

classification of,—11

**LANDS—*contd.***

Crown, alienated—x

leases of, failure of the attempts to introduce—xiii

reclaimed—xiv

seizure of the, belonging to the Jesuits—x

**LAND REGISTERS**

certified extracts from,—66

inspection of the, by the public—65

where kept—65

**LAND REVENUE**

abatement of,—19

Act II of 1876—xli

definition of,—3, 4

LAUGHTON, Lieut.-Col., Survey of,—xl, cix

**LEASES**

attempts to introduce, fail—xiii

execution of, by Collector, on behalf of the Secretary of State—49

form of, No. 1—cxli

form of, No. 2—cxlix

general conditions in,—44

of lands in Colaba and Old Woman's Island—lii

of lands on the Esplanade—xli

renewal of the,—45

term of the,—44

LEASES COMMITTEE of 1822—lii

LEASES COMMITTEE of 1891—xliiv

**LEASEHOLD LANDS**

area of,—ciii

situation of,—cii

**LEASEHOLD TENURE**, kind of,—lxxxv, cii**LE MESSURIER**, Advocate-General, opinion of, on  
Foras lands—xxxiv**LETTERS PATENT** transferring the Island of Bom-  
bay to the Company—vi**LEVELS** of the Island of Bombay—cxi**LIABILITY** of Revenue Officers to be sued—33**LIMITS** of the Ordinary Original Civil Jurisdiction of  
the Bombay High Court—2**LIONEL DE SOUZA E LIMA**, Grant of the Mazagon  
Estate to—lxiv**LUCAS**, Sir Gervase, appointed Governor of Bombay—v**MACKINTOSH**, Sir James, Recorder, verdict of,—xxi,  
lxlvi**MACKLIN**, Advocate-General, opinion of, *re* salt batty  
lands—xxvi**MANOKJI NOWROJI HILL**—lxv**MAPS** of the Bombay City Survey  
certified extracts from,—66  
inspection of the, by the public—65  
where kept—65**MAPS** of the Island of Bombay—cviii, cxii**MARIANA DE NORONHA**, Donna, Proprietress of the  
Mazagon Estate—lxv

MARLBOROUGH, Earl of,

Commandant of the English Fleet—ii

returns to Europe—iii

MARRIAGE-TREATY—i

MARTINHO DE SILVEIRA DE MENEZES, Proprietor of the Mazagon Estate—lxv

MATTARA, meaning of,—xix

MATTERWADY, farm of, leased—lxix, lxx, lxxi

MAYOR'S COURT

appeal against the judgment of the,—lxxvi

judgment of the, 1758—lxvii

judgment of the, 1787—lxxvi

MAZAGON COLLEWADY, farm of, leased—lxx, lxxi

MAZAGON ESTATE

Company put in possession of,—lxvii

divided into six lots—lxix

farmed into lots—lxix

farmed in one lot—lxviii

farming of the, in one lot, disapproved by the Court of Directors—lxix

Government's title to the, disputed—lxxv

History of the,—lxiv

laid claim to by the Honourable Company—lxvi

mortgages of the,—lxvi

vesting of the, in the Honourable Company—xvi

MILITARY CANTONMENT, attempts to establish the, in Colaba—lx, lxi, lxii

**MILITARY SERVICE**

reservation of, under Aungier's Convention—ix

substituted by money charge—xi

**MINES AND MINERALS**

conditions as to, in leases—45

rights of Government to—12

**MIS-STATEMENT** in description of property in notice  
under sec. 12—23

**MUNICIPALITY**, lands granted to the,—47

**MUNRO**, Collector of Land Revenue, proposals of, *re* salt  
batty lands—xxv

**NEW TOWN**—xx

**NEWLY ASSESSED LANDS**, specific limit to assessment  
on—15

**NEWLY ASSESSED TENURE**

area of lands under the,—cv

kind of,—lxxxv, civ

revision of assessment on lands held under  
the,—cv

**NOTICE**

calling on holders to intimate claim to right of superior  
holder—16, 72

for removal of encroachment—50

**NOTICE OF ASSESSMENT**

preliminary,—19

when not invalid—12

**NOTICE OF DEMAND—25, 27**

mode of service of,—62

to be served after arrears due—25

to be served on superior holder or on person in possession—25

**NOTICE OF SUITS against Government or Government Officers—33****NOTICE OF TRANSFER OF LANDS—55**

accompaniments to the,—57

form of the,—57, 70, 71

penalty for neglect to give,—58

when to be given—56

**NOTICE** regulating the persons, places and times to whom,  
where and when land revenue shall be paid—22

**NOUGHAR**, farm of, leased—lxix, lxx, lxxi

**NOWLAND**, Richard, lease of the Mazagon Estate  
to,—lxvi

**OCCUPANCY**, right of,—44

**OCCUPANCY PRICE—44**

**OLD WOMAN'S ISLAND—xlvi**

**ORDERS OF GOVERNMENT** to mean general orders—12

**OXINDEN**, Sir George

President of the Council at Surat—iii

took possession of the Island of Bombay in the name  
of the Company—vii

**PARAMOUNT CHARGE**, arrears of land revenue when  
to be—21

**PAYMENT OF LAND REVENUE**

- can be made in advance—23
- cannot be made in instalments—23
- to whom, where and when to be made—22

**PENALTY**

- for encroachments on Government land or foreshore—50
- for neglect to give notice of transfer—58
- how realized—63

**PENSION, derivation of,—lxxxv****PENSION AND TAX LANDS**

- area of,—lxxxvi
- situation of,—lxxxvi
- specific limit to assessment on,—14

**PENSION AND TAX TENURE, kind of,—lxxxv**

**PERSON IN POSSESSION** when liable in person and property for land revenue—21

**PERSON OF PROFESSIONAL COMPETENCE—57**

**PERSON TRANSFERRING TITLE** but omitting to give notice liable for revenue—59

**PLAN** of lands to be transferred—57, 58

**POMKERNEY HOUSE** conveyed to Shanker Sinoy—lxxvi

**PORT TRUST**, foreshore vested in the,—43

**POWERS OF THE COLLECTOR OF BOMBAY**  
re punishment for misconduct of his Assistants or other subordinates—8

PRELIMINARY NOTICE OF ASSESSMENT—19

PROCLAMATION of 1789—xvii

●PROHIBITORY ORDER for attachment of monies due  
to defaulter—28

### PROPERTY

exempt from attachment—29

of defaulter, sale of,—25, 26

### QUIT-RENTS

established—xi

modified and equalized—xii

reduced—xi

### QUIT AND GROUND RENT LANDS

area of,—lxl

situation of,—lxl

specific limit to assessment on,—14

QUIT AND GROUND RENT TENURE, kind  
of,—lxxxv, lxxxviii

RAMPARTS, dismantling of the,—xl

RAMPART REMOVAL COMMITTEE—xli

REAS, meaning of,—xiv

### RECEIPT-BILLS—23

form of,—74

not declarations of tenure—23

### RECORDS OF THE BOMBAY CITY SURVEY

prima facie evidence—37

when altered—37



**RECOVERY OF ARREARS OF LAND REVENUE**

- from persons residing out of Bombay, how made—30
- from persons residing outside British India—30

**REDEMPTION OF ASSESSMENT**

- on Foras lands—lxlvi, 14
- on Pension and Tax lands—lxxxvi, 14
- on Quit and Ground Rent lands—lxl, 14
- when compulsory—23
- when optional—24

**REGISTRATION OF TITLE**

- not to affect Government—61
- object of the,—61

**REGULATION XIX of 1827—xxix****RELATION**

- between Fazindar and his tenant—lxxxvii
- between Inamdar and his tenant—lxlx

**REMISSION OF LAND REVENUE vide ABATEMENT OF LAND REVENUE.****RENTS vide GROUND RENTS.****RENT COMMITTEE—xxix, lvii****RENT ROLLS**

- form of,—85
- form of, approved by Government—65

**RENEWAL OF LEASES vide LEASES.****REVENUE JUDGE**

- duties and powers of,—32
- jurisdiction of,—33

## REVENUE SURVEY

of 1811-1827—xxiii, cviii

of 1865-1872—xl, cix

## REVENUE YEARS—24

## REVISION OF ASSESSMENT

of Newly Assessed lands—cv, 15

of Foras and Foras-Toka lands—xlii, lxlii, 14

## RIGHT OF CROWN to assess lands—9

RIGHT OF GOVERNMENT to unoccupied land and  
unoccupied foreshore—39

## RIGHT OF HOLDERS

in limitation of the right of Government to  
assess—8, 13

do. do. established and preserved—13

## RIGHT OF OCCUPANCY—44

RIGHT TO FIX ASSESSMENT to include right to  
enhance assessment—12

## RIGHT TO MINERALS—45

RIGHT TO RENTS DUE TO SUPERIOR HOLDER  
from his tenant—28

## RIGHT TO SOIL SUBMERGED—41

## ROYAL PATENT

of 1572—lxiv

of 1637—lxiv

of 1668—vi

## RULES

for appeals to the High Court—36.

for appeals to His Majesty in Council—36.

**RULES—*contd.***

- for conduct of legal affairs of Government—36
- for confinement of debtors—29
- for disposal of Government lands for the manufacture of salt—88
- for obtaining extracts from maps and land registers—86
- for production of records before Courts of Law—83
- for search and inspection of Collector's records—86
- relating to the conduct of Government Servants—8
- under section 41—88

**RUY DE SOUZA** Proprietor of the Mazagon Estate—lxiv, lxxv

**SALE OF DEFAULTER'S PROPERTY**

- conditions of the,—80
- how held—26, 28
- under section 13, good against all interests—28

**SALE OF IMMOVEABLE PROPERTY OF DEFAULTER**

- other than that on which land-revenue is due will not be free from encumbrances—29

**SANADS—xxvii**

- form of, No. 1—cliv
- form of, No. 2—clv
- of lands in Colaba—li

**SANADI LANDS**

- area of,—civ
- conversion of, into Quit and Ground Rent lands—civ
- do. form of,—clvi
- situation of,—ciii

SANADI TENURE, kind of,—lxxxv, ciii

SECURITY by defaulter—31

•SENHORA DE SOUZA E TAVORA, Donna, Proprietress  
of the Mazagon Estate—lxv

SERVICE OF NOTICE, how made—62

SETTLEMENT OF ASSESSMENT

how and with whom to be made—16

may be one-sided—17

on whom binding—16

SHANKER SINOY, Part Proprietor of the Mazagon  
Estate—lxv

SHERIFF OF BOMBAY to send notice to the Collector  
of Bombay of sale of land by order of the High  
Court—21

SHIPMAN, Sir Abraham

appointment of, as General on shore—ii

arrival of, in Bombay—iii

death of,—iii

SHOWELL, Collector of Land revenue, Report of,—xxxvi

SOCAGE, meaning of,—vi

SPECIFIC LIMIT TO ASSESSMENT—9

on lands under different tenures—14

STREETS vested in the Municipality—42

SUBMERGED, right to soil—41

SUITS

against Government or public Officers—32

before Revenue Judge how conducted—35

**SUITS—*contd.***

- in the Revenue Adawlat, *re* arrears of rent in Maza-  
gon Estate—lxxiv
- notice of, against Government or Government Offi-  
cers—33

**SUMMONS** to appear before the Collector—61

**SUPERIOR HOLDER**

- definition of,—4, 5, 6
- liable in person and property for land revenue—21

**SURPLUS RECEIPTS—29****SURVEY of the Island of Bombay**

- by Capt. Dickinson—xxiii, cviii
- by Maj. Laughton—xl, cix
- made departmentally—cix

**SURVEY BOUNDARY-MARKS**

- definition of,—4
- set up by the Officers of the Bombay City  
Survey—cxi, 5

**SURVEY RECORDS**

- certified extracts from,—66
- inspection of the, by the public—65
- where kept—65

**SURVEY REGISTERS**

- form of,—84
- do. approved by Government—65

**SYER**, Sir William, Recorder—lxxvi

**TANKS** vested in the Municipality—42

**TATE**, Capt., Revenue Survey finished under,—xxiii, cviii

TAX of two shillings to the £—xv, lxxxv

TENANCY-AT-WILL

Agreement, form of,—clix

lands held under, area of,—cvi

do. do. situation of,—cvi

tenure, kind of,—lxxxv, cvi

TENURES, the existing,—lxxxv

TERM of the leases vide under LEASES.

THRIEPLAND, Advocate-General, suggestions of,—xxii

TOKA

derivation of,—lxl

meaning of,—xiv

TOKA LANDS

area of,—lxlii

early history of,—lxlii

farming of,—xiv, lxli

reassessment of,—xlii, lxli

situation of,—lxlii

specific limit to assessment on,—14

TOKA TENURE, kind of,—lxxxv, lxl

TOWN COMMITTEE—xix

TRANSFER OF LANDS, notice of,—55

TRANSFER OF THE ISLAND OF BOMBAY

to the Company—vi

to the Crown—xxxvi

TREATMENT OF IMPROVEMENT vide IMPROVEMENTS.

TREATY OF MARRIAGE between King Charles II and  
Infanta Catherina of Portugal—i

UNAUTHORIZED ASSESSMENT BY COLLECTOR

validated by subsequent ratification—13

UNOCCUPIED

foreshore, right of Government to,—39

lands, right of Government to,—39

meaning of,—40

VARALI—lxv

sold to Antonio de Silva—lxv

VEREADORES, meaning of,—ix

WADDINTON, Capt., report of, on the survey of the  
Island of Bombay—xxxix

WADIA FAMILY, Inam Grants to, vide under GRANTS.

WARDEN, Chief Secretary to Government

observations of, on Capt. Dickinson's report—xxiv

views of,—xxiv

WARRANT OF ATTACHMENT, form of,—79

WELLS, public, vested in the Municipality—42

XERAPHINS, meaning of,—v

---

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**2009-08**